

Page 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND
COMPOUNDING PHARMACY,
INC. PRODUCTS LIABILITY MDL No. 2419
LITIGATION

Master Dkt:
1:13-md-02419-RWZ

~~~~~  
THIS DOCUMENT RELATES  
TO:

All Actions

~~~~~  
VIDEOTAPED DEPOSITION OF
DEBRA SCHAMBERG, R.N.

9:06 a.m.
February 4, 2015

Suite 1100
315 Deaderick Street
Nashville, Tennessee

Blanche J. Dugas, RPR, CCR No. B-2290

Page 3

1 ~~ APPEARANCES CONTINUED ~~
2 On Behalf of Saint Thomas Outpatient Neurosurgical
3 Center, LLC; Howell Allen, a Professional Corporation;
John W. Culclasure, M.D.; Debra V. Schamberg, RN;
CLARENCE J. "C.J." GIDEON, JR., Esquire
MATTHEW CLINE, Esquire
CHRISTOPHER TARDIO, Esquire
Gideon, Cooper & Essary, PLC
Suite 1100
315 Deaderick Street
Nashville, Tennessee 37238
(615) 254-0400
cj@gideoncooper.com
matt@gideoncooper.com
chris@gideoncooper.com

9
On Behalf of St. Thomas Health; St. Thomas Network;
10 St. Thomas West Hospital f/k/a St. Thomas Hospital:

ERIC J. HOFFMAN, Esquire
ADAM T. SCHRAMEK, Esquire
Norton, Rose, Fulbright
Suite 1100
98 San Jacinto Boulevard
Austin, Texas 78701
(512) 536-5232
adam.schramek@nortonrosefulbright.com
eric.hoffman@nortonrosefulbright.com

15
AMY D. HAMPTON, Esquire
16 Bradley, Arant, Boult & Cummings, LLP
Suite 700, Roundabout Plaza
17 1600 Division Street
Nashville, Tennessee 37203
(615) 244-2582
(615) 252-6379 (facsimile)

18 ahampton@babc.com
On Behalf of Premier Orthopaedic & Sports Medicine
Associates of Southern New Jersey, LLC d/b/a Premier
21 Orthopaedic & Sports Associates, LLC; Premier
Orthopaedic Associates Surgical Center, LLC:

22 JAY J. BLUMBERG, Esquire
Blumberg & Wolf, LLC
23 158 Delaware Street
Woodbury, New Jersey 08096
(856) 848-7472
(856) 848-8012 (facsimile)
jjblumberg@blumberglawoffices.com

Page 2

Page 4

1 APPEARANCES OF COUNSEL
2

On Behalf of the Plaintiffs:
GEORGE NOLAN, Esquire
WILLIAM LEADER, Esquire
Leader, Bulso & Nolan, PLC
Suite 1740
414 Union Street
Nashville, Tennessee 37219-1734
(615) 780-4114
(615) 780-4122 (facsimile)
gnolan@leaderbulso.com
bleader@leaderbulso.com

J. GERARD STRANCH, IV, Esquire
Branstetter, Stranch & Jennings, PLLC
227 Second Avenue North
Nashville, Tennessee 37201
(615) 254-8801
gerards@branstetterlaw.com
MARK P. CHALOS, Esquire
Lieff, Cabraser, Heimann & Bernstein, LLP
Suite 1650, One Nashville Place
150 Fourth Avenue
Nashville, Tennessee 37219-2423
(615) 313-9000
(615) 313-9965 (facsimile)
mchalos@lchb.com

DANIEL L. CLAYTON, Esquire
Kinnard, Clayton & Beveridge
127 Woodmont Boulevard
Nashville, Tennessee 37205
(615) 686-2501
(615) 297-1505 (facsimile)
dclyton@kcattys.com

1 ~~ APPEARANCES CONTINUED ~~
2 On Behalf of UniFirst Corporation:
JIM REHNQUIST, Esquire
3 KATE E. MACLEMAN, Esquire
Goodwin Procter, LLP
4 53 State Street, Exchange Place
Boston, Massachusetts 02109
(617) 570-1000
(617) 523-1231 (facsimile)
6 jrehnquist@goodwinprocter.com
kmacleman@goodwinprocter.com

7
8 On Behalf of Specialty Surgery Center - Crossville,
PLLC; Kenneth R. Lister, M.D.; Kenneth R. Lister,
9 M.D., PC:
MEGAN A. CARRICK, Esquire

10 Brewer, Krause, Brooks, Chastain & Burrow, PLLC
Suite 2600
11 611 Commerce Street
Nashville, Tennessee 37203
(615) 256-8787
(615) 256-8985 (facsimile)
13 mcarrick@bkblaw.com

14 *The following attorneys appeared via video stream*
CHRISTOPHER T. CAIN, Esquire
Scott & Cain
16 Suite 601
550 West Main Street
17 Knoxville, Tennessee 37902
(865) 525-2150
(865) 525-2120 (facsimile)
19 CLARE CARROLL, Esquire
McCarthy, Bouley & Barry, PC
20 47 Thorndike Street
Cambridge, Massachusetts 02141
(617) 225-2211
(617) 225-7711 (facsimile)
22 cfc@mbblaw.com

Page 5

Page 7

1 ~~ APPEARANCES CONTINUED ~~
2 TRACY CONTE, Esquire
The Blair Law Firm
3 Suite 207
5214 Maryland Way
4 Brentwood, Tennessee 37027
(615) 515-4492
5 tconte@blair-law.com
6 DUSTIN CLINT DANIEL, Esquire
Schulman, LeRoy & Bennett, PC
7 7th Floor
501 Union Street
8 Nashville, Tennessee 37219-0676
(615) 244-6670
9 (615) 254-5407 (facsimile)
ddaniel@slblawfirm.com

10 KATHERINE DENNIS, Esquire
11 Capplis, Connors & Carroll, PC
Suite 220
12 18 Tremont Street
Boston, Massachusetts 02108
(617) 227-0722
13 ROBERT H. GAYNOR, Esquire
14 Sloane & Walsh, LLP
15 Suite 850
Three Center Plaza
16 Boston, Massachusetts 02108
(617) 523-6010
17 (617) 227-0927 (facsimile)
rgaynor@sloanewalsh.com

18 BRANDON KULWICKI, Esquire
19 Stewart, Courington, Dugger & Dean
Suite 200
20 1701 N. Market Street
Dallas, Texas 75202
(214) 615-2025
21 (214) 615-2001 (facsimile)
22 brandon@scddlaw.com
23
24
25

~ APPEARANCES CONTINUED ~

CHRISTOPHER WOLK, Esquire
MELISSA BUTERBAUGH, Esquire
Blumberg & Wolk, LLC
158 Delaware Street
Woodbury, New Jersey 08096
(856) 848-7472
(856) 848-8012 (facsimile)
cwolk@blumberglawoffices.com
mbuterbaugh@blumberglawoffices.com

JEREMY CAIN, Esquire
Gideon, Cooper & Essary, PLC
Suite 1100
315 Deaderick Street
Nashville, Tennessee 37238
(615) 254-0400
jeremy@gideoncooper.com

NICHOLAS DREW, Esquire
Goodwin Procter, LLP
53 State Street, Exchange Place
Boston, Massachusetts 02109
(617) 570-1000
(617) 523-1231 (facsimile)
ndrew@goodwinprocter.com

BEN GASTEL, Esquire
Branstetter, Stranch & Jennings, PLLC
227 Second Avenue North
Nashville, Tennessee 37201
(615)254-8801
beng@bsjffirm.com

Also Present:
Daniel Makowski, Videographer
Scott Butler

Also Present:
Daniel Makowski, Videographer
Scott Butler

Page 6

Page 8

1 ~~ APPEARANCES CONTINUED ~~
2 JESSICA H. MEDDER, Esquire
3 Janet, Jenner & Suggs, LLC
4 Suite 165
5 1777 Reisterstown Road
6 Baltimore, Maryland 21208
7 (410) 653-3200
8 (410) 653-9030 (facsimile)
9 jmedder@myadvocates.com

10 ROBERT YOUNG, Esquire
11 English, Lucas, Priest & Owsley, LLP
12 1101 College Street
13 Bowling Green, Kentucky 42102-0770
14 (270) 782-6500
15 (270) 782-7782
16 byoung@elpolaw.com

17 LOUIS W. VOELKER, Esquire
18 Eichhorn & Eichhorn, LLP
19 200 Russell Street
20 Hammond, Indiana 46320
21 (219) 931-0560
22 lvoelker@eichhorn-law.com

23 ASHLEE A. WEBSTER, Esquire
24 LeClairRyan
25 Drawer 1200
26 1800 Wells Fargo Tower
27 Roanoke, Virginia 24006
28 (540) 510-3000

29 MARK ZAMORA, Esquire
30 The Orlando Firm, PC
31 Suite 2600
32 5 Concourse Parkway
33 Atlanta, Georgia 30328
34 (404) 373-1800
35 mark@markzamora.com

INDEX OF EXAMINATION		PAGE
EXAMINATION BY MR. NOLAN		17
EXAMINATION BY MR. SCHRAMEK	220	
EXAMINATION BY MR. REHNQUIST	246	
EXAMINATION BY MS. CARRICK	287	
- - -		
INDEX TO EXHIBITS		
EXHIBIT	DESCRIPTION	PAGE
23	Photograph	41
24	Black and white photographs of employee name tags	43
25	Curriculum vitae of Debra Schamberg, RN, CNOR	50
26	Letter from the State of Tennessee Department of Health dated February 7, 2007 to Tom Hall, Administrator of the St. Thomas Outpatient Neurosurgical Center, LLC	51
27	E-mail string RE: New order	53
28	Excel/CSV file provided natively, Bates numbered STOPNC-0003774	59
29	Spreadsheet titled STOPNC MPA Purchases 2008-2010	72

			Page 9				Page 11
1	30	Spreadsheet with invoices attached	73	1	54	St. Thomas Outpatient Neurosurgical Center infection prevention and control plan CY 2012	233
2	31	E-mail from Jason Salvucci to Debra Schamberg dated Monday, September 27, 2010 RE quote with attachments	74	2	55	E-mail string regarding correction action plan and protocols Bates numbered STE_MDL_014343	267
3	32	FDA document titled "The Special Risks of Pharmacy Compounding"	80	5	56	St. Thomas Outpatient Neurosurgical Center injection practice guidelines	269
4	33	Document titled "Drugs - 2006 Limited FDA Survey of Compounded Drug Products"	80	6	57	E-mail from Debra Schamberg dated Thursday, September 6, 2012 regarding Aug stats	283
5	34	Google Earth photograph	88	7	(Original Exhibits 23 through 57 have been attached to the original transcript.)		
6	35	CDC document titled "MMWR - Morbidity and Mortality Weekly Report"	91	8			
7	36	Clint Pharmaceuticals document Bates numbered STOPNC000849 through STOPNC000868	98	9			
8	37	NECC invoices Bates numbered STOPNC_0030 through STOPNC_0020	104	10			
9	38	PSS World Medical, Inc. Invoices Bates numbered STOPNC_0211 through STOPNC_0208	106	11			
10	39	Packet of e-mail string regarding vendors	112	12			
11	40	St. Thomas Outpatient Neurosurgical Center formulary policy Bates numbered STOPNC_0533 through STOPNC_0538	178	13			
12	41	St. Thomas Outpatient Neurosurgical Center, LLC rules and regulations	181	14			
13				15			
14				16			
15				17			
16				18			
17				19			
18				20			
19				21			
20				22			
21				23			
22				24			
23				25			
			Page 10				Page 12
1	42	Saint Thomas Outpatient Neurosurgical Center medication substitution, shortage or outage policy	185	1	Videotaped Deposition of Debra Schamberg, R.N. February 4, 2015		
2	43	St. Thomas Outpatient Neurosurgical Center formulary drug evaluation request	187	2			
3	44	E-mail string Bates numbered STOPNC-0003501	194	3	VIDEOGRAPHER: Here begins Tape No. 1 in the videotaped deposition of Debra Schamberg, RN, taken in the matter of New England Compounding Pharmacy, Inc. product liability litigation. This deposition is being held at 315 Deaderick Street, Nashville, Tennessee 37238 on February 4th of 2015 and the time is 9:06 a.m.		
4	45	Document titled "Script STOPNC Used when Calling Patients before the TN DoH Permitted STOPNC to Mention Fungal Meningitis and the NECC Recall"	197	4			
5	46	Photograph Bates numbered STOPNC_0770	201	5			
6	47	Photograph Bates numbered STOPNC_0773	202	6			
7	48	Photograph Bates numbered STOPNC_0784	203	7			
8	49	Photograph Bates numbered STOPNC_0785	204	8			
9	50	Photograph Bates numbered STOPNC_0775	204	9			
10	51	E-mail from Clint Pharmaceuticals to Debra Schamberg dated Thursday, October 4, 2012 regarding Clint Pharmaceuticals NOT linked to Fatal Meningitis Outbreak	205	10			
11	52	Affidavit	207	11			
12	53	St. Thomas Outpatient Neurosurgical Center medication errors policy	229	12			
13				13			
14				14			
15				15			
16				16			
17				17			
18				18			
19				19			
20				20			
21				21			
22				22			
23				23			
24				24			
25				25			

<p style="text-align: center;">Page 13</p> <p>1 behalf of the plaintiffs. 2 MR. SCHRAMEK: Adam Schramek on 3 behalf of the St. Thomas entities. 4 MR. HOFFMAN: Eric Hoffman on behalf 5 of the St. Thomas entities. 6 MS. HAMPTON: Amy Hampton on behalf 7 of the St. Thomas entities. 8 MR. BLUMBERG: Jay Blumberg on behalf 9 of the Premier defendants. 10 MS. CARRICK: Megan Carrick on behalf 11 of Dr. Lester. 12 MR. REHNQUIST: Jim Rhenquist, 13 UniFirst. 14 MS. MACLEMAN: Kate MacLeman, 15 UniFirst. 16 MR. TARDIO: Chris Tardio for the 17 Tennessee clinic defendants. 18 MR. CLINE: Matt Cline for the 19 Tennessee clinic defendants. 20 MR. GIDEON: C.J. Gideon for Debbie 21 Schamberg and all the other Tennessee 22 clinic defendants. 23 MR. NOLAN: Could the lawyers on the 24 phone please introduce themselves. 25 MR. GAYOR: Robert Gaynor on behalf</p>	<p style="text-align: center;">Page 15</p> <p>1 MS. CRAIG: Yvonne Craig, St. Thomas 2 entities. 3 VIDEOGRAPHER: I'm getting some 4 unpleasant audio artifacts. That's usually 5 caused by cell phones on or near wires. If 6 you would please remove those devices from 7 those areas. Thank you. 8 MR. NOLAN: I'd like the record to 9 also reflect that Scott Butler is here. 10 Is there anybody else who has not yet 11 introduced themselves? 12 MS. CRAIG: Matt, is that you? 13 MR. CLINE: That's George Nolan. 14 MS. CRAIG: Hello? I want to be sure 15 that you can hear me. This is Yvonne 16 Craig. 17 MR. NOLAN: Yvonne, this is George 18 Nolan. We can hear you loud and clear. 19 Thank you. 20 MS. KWAIG: Thank you, George. 21 MR. NOLAN: You're welcome. 22 MS. MEDDER: It's actually a little 23 difficult to hear you. Maybe it will 24 become easier once everyone starts talking. 25 I don't know if there's a way to increase</p>
<p style="text-align: center;">Page 14</p> <p>1 of the individual defendants and FCC 2 related. 3 MS. MEDDER: This is Jessica Medder 4 on behalf of the plaintiffs. 5 MR. NOLAN: Could the last person 6 please repeat that. 7 MS. WEBSTER: Ashley Webster. 8 MR. YOUNG: This is Bob Young. I 9 represent several of the Tennessee 10 plaintiffs. 11 MS. MEDDER: This is Jessica. Did 12 you hear me? I wasn't sure. 13 MR. NOLAN: We did not. 14 MS. MEDDER: Okay. Jessica Medder on 15 behalf of the plaintiffs. 16 MR. GIDEON: George, before you get 17 started, who was it that entered an 18 appearance on behalf of the NECC 19 defendants? 20 MR. NOLAN: I don't know. Could the 21 lawyer for the -- 22 MR. GAYNOR: Robert Gaynor on behalf 23 of the individual defendants for NECC. 24 VIDEOGRAPHER: Just a moment before 25 we get started.</p>	<p style="text-align: center;">Page 16</p> <p>1 your volume for people in the room. 2 MS. CRAIG: Okay. I won't have much 3 to say. I wanted to know is there any 4 other numbers to dial in? This is a 615 5 number. 6 MR. CLINE: No, that's the only 7 number. 8 VIDEOGRAPHER: Please turn the volume 9 off on your phones. 10 MR. NOLAN: If everyone on the phone 11 could mute your line unless you need to say 12 something, that would be appreciated. 13 We're going to go ahead and get started. 14 MR. GIDEON: Let's go ahead. Let's 15 go ahead. Let's have an agreement on the 16 caption. All objections except to the form 17 are reserved. Agreed? 18 MR. NOLAN: That's standard. That's 19 fine. 20 MR. GIDEON: Okay. And the witness 21 has not waived signature. 22 MR. NOLAN: That would be our 23 preference as well. 24 Let's go ahead and swear the witness. 25 DEBRA SCHAMBERG,</p>

Page 17

1 having been first duly sworn, was examined and
 2 testified as follows:
 3 EXAMINATION
 4 BY MR. NOLAN:
 5 Q. Ms. Schamberg, my name is George Nolan. We
 6 are here to take your deposition today. I understand
 7 this is not the first time you've ever been deposed.
 8 Is that true?

9 A. That is true.

10 Q. In this litigation, I am required to
 11 provide you with a copy of what's called the third
 12 amended protective order of confidentiality. I'm
 13 going to give that to you now. I'm giving that to you
 14 because during the course of this proceeding, you may
 15 be asked to look at documents that have been marked
 16 confidential during our discovery process, and I'd
 17 like to know if you're willing at your convenience to
 18 review that document and be sure to treat its
 19 requirements of confidentiality seriously. Is that
 20 fair enough?

21 A. Yes, sir.

22 Q. Okay. Thank you. We're going to -- you
 23 understand you're under oath today; correct?

24 A. Yes, sir.

25 Q. And you have the same obligation to tell

Page 19

1 Q. And if you don't know the answer, tell us
 2 that as well. Fair?
 3 A. Fair.
 4 Q. I'd like to start with a few questions
 5 about your background. Where are you from originally?
 6 A. I grew up in Hendersonville, Tennessee.
 7 Q. Okay. And can you give us a thumbnail
 8 sketch of your education, please.
 9 A. After graduating from high school, I
 10 attended Middle Tennessee State University for two
 11 years. I married and started a family and I returned
 12 to school in 1982. I went to nursing school at
 13 Tennessee State University.
 14 Q. And what professional licensures do you
 15 hold?
 16 A. I'm a registered nurse.
 17 Q. You've been a registered nurse for how
 18 long?
 19 A. Since 1984.
 20 Q. And when you became a registered nurse in
 21 1984, where did you begin working?
 22 A. Westside Hospital.
 23 Q. How long did you work there?
 24 A. Until 1987.
 25 Q. What did you do next?

Page 18

1 the truth in response to each of my questions as you
 2 would have if we were in a courtroom and the judge was
 3 sitting next to the witness stand. You understand
 4 that?

5 A. Yes, sir.

6 Q. And will you agree to make sure that all of
 7 your answers today are full, truthful and complete?

8 A. Yes, I will.

9 Q. If I ask you any question that you don't
 10 understand, will you let me know and I'll be happy to
 11 try to clear up any confusion?

12 A. Yes, sir.

13 Q. If I ask a question and you give me an
 14 answer, I'm going to assume that you understood my
 15 question. Is that fair enough?

16 A. Yes, sir.

17 Q. So if you're confused about something, the
 18 obligation is on you to let us know. Fair enough?

19 A. Fair.

20 Q. Now, if I ask you a question and you know
 21 the answer, will you promise to tell us the answer
 22 that you're aware of? In other words, you will not
 23 feign a lack of memory when, in fact, you know the
 24 answer. Is that fair enough?

25 A. Correct.

Page 20

1 A. I had a child.
 2 Q. Did you take some time off in connection
 3 with that?
 4 A. A few months.
 5 Q. All right. And where did you work after
 6 Westside Hospital?
 7 A. It was a surgery -- Parkside Surgery
 8 Center.
 9 Q. Okay. How long did you work there?
 10 A. A few months.
 11 Q. What did you do next?
 12 A. I went to work for CNA Insurance.
 13 Q. What did you do for that insurance company?
 14 A. Obtained medical information for clients
 15 applying for disability and life insurance.
 16 Q. How long did you do that?
 17 A. Until 1990, I believe.
 18 Q. And what did you begin doing in 1990?
 19 A. I went to work for Parkview Hospital.
 20 Q. What did you do for Parkview?
 21 A. I was an OR nurse.
 22 Q. Have you ever worked in a pharmacy?
 23 A. Not a true pharmacy.
 24 Q. Well, what other type of pharmacy is there?
 25 A. Well, working with the pharmacist in the

Page 21

1 OR.
 2 Q. Okay. Well, was there a pharmacy in the
 3 OR?
 4 A. Yes.
 5 Q. Okay. So have you worked in a pharmacy?
 6 A. Not inside the pharmacy.
 7 Q. Okay. So you have never worked in a
 8 pharmacy; is that true?
 9 A. That is -- not inside the pharmacy. No,
 10 sir, I have not.
 11 Q. All right. So after working as an OR nurse
 12 at Parkview, what did you do next?
 13 A. I worked with them until 2000.
 14 Q. Then what did you do?
 15 A. I went to work for Howell Allen Clinic.
 16 Q. I understand that the name of the Howell
 17 Allen Clinic was different at that point in time; is
 18 that correct?
 19 A. That is correct.
 20 Q. What was the name of that company at that
 21 time?
 22 A. Neurological Surgeons.
 23 Q. And so when you went to work with the
 24 entity which is now the Howell Allen Clinic in 2000,
 25 what was your job?

Page 22

1 A. I went to work as a staff nurse at the St.
 2 Thomas Outpatient Neurosurgical Center.
 3 Q. And what were your duties as a staff nurse
 4 with that organization?
 5 A. I worked as a circulator and as a scrub
 6 nurse.
 7 Q. How long did you do that?
 8 A. Until 2005.
 9 Q. What changed in 2005?
 10 A. We moved the surgery portion to the north
 11 tower at Baptist.
 12 Q. So am I correct in understanding that from
 13 2000 to 2005, at the St. Thomas Outpatient
 14 Neurosurgical Center, there were actual neuro --
 15 neurosurgery actually occurred at that facility; is
 16 that true?
 17 A. That is true.
 18 Q. Okay. And were epidural steroid injections
 19 also given at the St. Thomas Outpatient Neurosurgical
 20 Center during that period of time?
 21 A. Yes, they were.
 22 Q. All right. Now, the name of that entity is
 23 somewhat of a mouthful, and during the course of the
 24 deposition, I'm likely to refer to it as St. Thomas
 25 Neurosurgical. So if I say St. Thomas Neurosurgical,

Page 23

1 will you understand that I'm referring to the St.
 2 Thomas Outpatient Neurosurgical Center? Fair enough?
 3 A. Okay.
 4 Q. And so if I understand your testimony, it
 5 was in 2005 that St. Thomas Neurosurgical began to
 6 focus on pain management as opposed to neurosurgery
 7 and specifically began to focus on providing patients
 8 with epidural steroid injections; is that correct?
 9 MR. GIDEON: Objection to the form.
 10 THE WITNESS: We were doing pain
 11 management at St. Thomas Outpatient
 12 Neurosurgical Center prior to 2005.
 13 Q. (By Mr. Nolan) All right. So would it be
 14 fair for me to say that St. Thomas Neurosurgical has
 15 been in the pain management business since 2000?
 16 A. I believe that's correct.
 17 Q. But in 2005, it began to focus almost
 18 exclusively on epidural steroid injections; is that
 19 correct?
 20 A. That is correct.
 21 Q. And do you know why St. Thomas
 22 Neurosurgical made that change?
 23 A. The physicians wanted to be able to do
 24 their inpatient procedures so we moved to the
 25 hospital.

Page 24

1 Q. And so in 2005, did your job title change?
 2 A. Not -- not immediately.
 3 Q. All right. So what was your job title in
 4 2005 when St. Thomas Neurosurgical began to focus on
 5 providing epidural steroid injections?
 6 A. I missed part of that.
 7 Q. In 2005 when the change occurred such that
 8 surgery wasn't being done at this facility and rather
 9 epidural steroid injections comprised that facility's
 10 business, when that change occurred, were you still a
 11 staff nurse?
 12 A. Yes.
 13 Q. All right. And what was the next job that
 14 you assumed for the company?
 15 A. I became their clinical educator and
 16 employee health and infection control nurse.
 17 Q. All right. So I have clinical educator,
 18 employee health and infection control nurse?
 19 A. That is correct.
 20 Q. What were your duties as a clinical
 21 educator?
 22 A. To orient, help new employees, and I was in
 23 charge of doing monthly in-service, any type of
 24 education that was required.
 25 Q. All right. And what about your employee

Page 25

1 health duties? What were those?

2 A. Keeping current on employees TB skin tests
3 and any type of -- if there were any needle sticks or
4 that type of thing, where to refer them to.

5 Q. Okay. And what about your duties as the
6 infection control nurse?

7 A. Infection control, doing followup if there
8 were any infections, touring the facility to see if we
9 were -- just surveying the facility.

10 Q. Okay. Did you receive any special training
11 in order to assume responsibilities for infection
12 control?

13 A. Yes, I did.

14 Q. And tell us about that.

15 A. I attended and I believe it was put on by
16 APIC, a course in St. Louis.

17 Q. What is APIC?

18 A. Association prevention [sic] of infection
19 control.

20 Q. Okay. And when did you go to that course?

21 A. I'm not sure of the dates.

22 Q. What would be your best estimate?

23 A. 2006, 2007.

24 Q. Other than that particular course, did you
25 have any other special training to assume

Page 27

1 Q. I see. Okay. And so you left St. Thomas

2 Neurosurgical for a while and went over to work at The
3 Center for Spinal Surgery; correct?

4 A. That is correct.

5 Q. And how long did you work at The Center for
6 Spinal Surgery?

7 A. In 2009 I took the position at the St.
8 Thomas Outpatient Neurosurgical Center.

9 Q. All right. And so when did you start at
10 The Center for Spinal Surgery?

11 A. When we moved there in 2005.

12 Q. Okay. Gotcha. So just so the record is
13 clear, from 2000 to 2005, you were at St. Thomas
14 Neurosurgical, then from 2005 to 2009, you went over
15 to The Center for Spinal Surgery, and then in 2009,
16 you went back to St. Thomas Neurosurgical. Do I have
17 that straight, so to speak?

18 A. That is correct.

19 Q. And so when you went back to St. Thomas
20 Neurosurgical in 2009, what was your position?

21 A. I became the facility director.

22 Q. Okay. And who decided to appoint you the
23 facility director? Who made that decision?

24 A. Scott Butler and I assume the physicians.
25 I'm...

Page 28

1 responsibilities for infection control?

2 A. No.

3 Q. Does infection control include infection
4 prevention?

5 A. Yes.

6 Q. Did any of the training that you had in the
7 course in St. Louis involve special education
8 regarding compounding pharmacies?

9 A. Not that I recall.

10 Q. Did you ever have any particular training
11 that focused on compounding pharmacies?

12 A. No.

13 Q. All right. So how long did you serve the
14 three functions that you've mentioned: clinical
15 education, employee health and infection control
16 nurse?

17 A. Until I took the position as the facility
18 director at -- back at St. Thomas Outpatient
19 Neurosurgical Center.

20 Q. Now, let me make sure I understand. I may
21 have missed something. When you were doing the
22 infection control nurse responsibilities, was that at
23 St. Thomas Neurosurgical or was that at another part
24 of Howell Allen Clinic?

25 A. That was at the Center for Spinal Surgery.

1 Q. And so have you continued to serve as the
2 facility director for St. Thomas Neurosurgical since
3 2009?

4 A. Yes, I have.

5 Q. And describe your duties as the facility's
6 director.

7 A. I oversee the day-to-day operations of the
8 facility.

9 Q. And what does that include?

10 A. I oversee the whole -- the staff and the
11 running of the facility, anything that's a part of the
12 clinical side.

13 Q. Are you an employee of Howell Allen Clinic?

14 A. Yes, I am.

15 Q. And are all the people who work at St.
16 Thomas Neurosurgical employees of Howell Allen Clinic?

17 A. Yes, they are.

18 Q. And how many people do you supervise?

19 A. Probably -- I do have some part time so --
20 and PRN. On a basis, usually 13.

21 Q. And those 13 people, what types of jobs do
22 they comprise?

23 A. I have registered nurses, LPN, medical
24 assistants and secretaries and x-ray technician.

25 Q. Okay. So would it be fair for me to

Page 29

1 understand that your responsibility to supervise the
 2 day-to-day operations includes making sure that the
 3 doctors who give epidural steroid injections have
 4 everything they need in order to do their jobs; is
 5 that correct?

6 A. I rely on the staff to make sure we have
 7 what is needed for the physicians.

8 Q. But is it ultimately your responsibility to
 9 make sure the staff does what they're supposed to do
 10 so that the physicians have what they need to do
 11 their -- do their jobs?

12 A. Yes.

13 Q. So you are ultimately responsibility for
 14 procuring supplies, including medications; is that
 15 true?

16 A. Yes.

17 Q. And did you receive any special training in
 18 order to become a facilities director of an ambulatory
 19 surgical center?

20 A. I worked as -- in the facility since 2000
 21 and have learned what is required.

22 Q. So your training consisted of on-the-job
 23 experience. Is that what I'm hearing you say?

24 A. Yes.

25 Q. Would I be correct in understanding that

Page 31

1 training about how to evaluate a compounding pharmacy
 2 or any other supplier of medicines; is that true?

3 A. That was not necessary.

4 Q. All right. You say it wasn't necessary. I
 5 guess there may be a dispute about that in this case.
 6 But I take it from your answer that it wasn't
 7 necessary, but the answer is no, there was no special
 8 training on that subject that was provided to you; is
 9 that correct?

10 A. There was no special training on how to do
 11 an order. That is -- just comes with the experience
 12 and the supplier you're dealing with.

13 Q. All right. So to make sure I'm clear,
 14 whether it was necessary or unnecessary, no one ever
 15 sat down with you and said, "Ms. Schamberg, we want
 16 you to attend a course, we want you to watch a video,
 17 we want you to read a book about how to evaluate
 18 compounding pharmacies or any other type of medication
 19 supplier"; is that correct?

20 A. That's correct.

21 Q. Has your medical license ever been the
 22 subject of any type of disciplinary procedure?

23 MR. GIDEON: Objection to the form.

24 THE WITNESS: No.

25 Q. (By Mr. Nolan) Who do you report to?

Page 30

1 St. Thomas Neurosurgical and Howell Allen Clinic did
 2 not provide you with any special training other than
 3 the on-the-job experience that you mentioned for you
 4 to fulfill the role as facility director; is that
 5 true?

6 A. I -- it wasn't necessary.

7 Q. All right. And did you provide -- did
 8 anyone provide you with any special training about how
 9 to go about evaluating drug suppliers or pharmacies?

10 A. In my 30 years of nursing, we're -- and
 11 working in the OR, you're constantly doing that.

12 Q. So I understand that your testimony is that
 13 you have experience in that regard, but I guess my
 14 question to you is: Did Howell Allen Clinic or St.
 15 Thomas Neurosurgical or St. Thomas Hospital or St.
 16 Thomas Health ever provide you with any particular
 17 training about how to evaluate a compounding pharmacy
 18 or any other type of drug supplier?

19 A. St. Thomas Hospital had nothing to do with
 20 my job, first of all. My training is ongoing. I'm
 21 not sure how to -- what you're looking for on this,
 22 sir.

23 Q. All right. So am I correct in
 24 understanding that Howell Allen Clinic and St. Thomas
 25 Neurosurgical never provided you with any specialty

Page 32

1 A. I report to my medical executive committee
 2 and my governing board.

3 Q. Who is on the medical executive committee?

4 A. Dr. Hubbard, Jason Hubbard, Scott Butler,
 5 Dr. John Culclasure, Shreka Rogers, Christy Ebert.

6 Q. Who is Dr. Hubbard? Did you say Jason
 7 Hubbard?

8 A. Yes.

9 Q. Jason Hubbard. Is he a doctor? Is he a
 10 physician?

11 A. He is one of the neurosurgeons.

12 Q. Okay. And we know who Dr. Culclasure is.
 13 We know who Mr. Butler is. Shreka Rogers?

14 A. Shreka Rogers is the business manager.

15 Q. Does she have any type of medical license
 16 or healthcare license?

17 A. I -- I do not know.

18 Q. And who is the last person you mentioned?

19 A. Christy Ebert.

20 Q. Who is she?

21 A. She is manager of the imaging center for
 22 Howell Allen.

23 Q. What is the function of the medical
 24 executive committee?

25 A. To report the clinical operations of the

Page 33

1 facility.
 2 Q. And to report those clinical operations to
 3 who?
 4 A. I report it to the committee.
 5 Q. Okay. How often do you do that?
 6 A. At least quarterly, sometimes more often.
 7 Q. And how do you do that? E-mail, face to
 8 face, board meeting? How does it go?
 9 A. It's a face-to-face meeting.
 10 Q. And where do the meetings happen?
 11 A. Most of the time on the 8th floor of the --
 12 in the Howell Allen office.
 13 Q. Where is that located?
 14 A. St. Thomas Medical Plaza.
 15 Q. So the meetings of -- are you saying that
 16 the meetings of the St. Thomas Neurosurgical medical
 17 executive committee occur on the 8th floor of the St.
 18 Thomas Medical Plaza?
 19 A. Yes.
 20 Q. Okay. All right. Have you ever been the
 21 subject of any type of internal disciplinary action by
 22 either Howell Allen or St. Thomas Neurosurgical?
 23 MR. GIDEON: That information would
 24 be privileged under TCA 68-11-272 and
 25 63-1-150. So if there's been any kind of

Page 34

1 internal quality improvement review, you're
 2 not to discuss that.
 3 THE WITNESS: Okay.
 4 Q. (By Mr. Nolan) Well -- and I'm -- at least
 5 at present, I'm not asking you what was said in any
 6 sort of a quality improvement meeting. My question
 7 is: Have you ever been disciplined by either Howell
 8 Allen Clinic or St. Thomas Neurosurgical?
 9 MR. GIDEON: If there was any
 10 discipline as a result of a quality
 11 improvement evaluation, then that's not
 12 something you should discuss. It is
 13 privileged.
 14 THE WITNESS: Okay.
 15 Q. (By Mr. Nolan) All right. So I think I
 16 understand your lawyer's objection. If you've been
 17 disciplined as a result of something having to do with
 18 the quality of care, I guess you shouldn't answer the
 19 question. But if you've been disciplined for any
 20 other reason, I'd like you to answer the question.
 21 So can you answer my question?
 22 A. I have not been disciplined.
 23 Q. At any point and for any reason; is that
 24 true?
 25 A. None that I can recall.

Page 35

1 Q. Okay. So, for example, you haven't been
 2 disciplined in connection with the fungal meningitis
 3 outbreak; is that true?
 4 A. That is true.
 5 Q. Have you been subjected to any sort of
 6 corrective action or specialty training as a result of
 7 the fungal meningitis outbreak?
 8 A. I'm not following you on this.
 9 Q. Well, have your bosses at St. Thomas
 10 Neurosurgical and Howell Allen Clinic required you to
 11 change anything as a result of the fungal meningitis
 12 outbreak?
 13 MR. GIDEON: Debbie, anything that
 14 may have been done as a result of an
 15 evaluation of the claims made by these
 16 people that comes from a quality
 17 improvement committee is not discoverable.
 18 It is privileged by law. So I instruct you
 19 not to share with him information that may
 20 have come from a quality improvement
 21 committee. All right?
 22 THE WITNESS: Okay.
 23 MR. GIDEON: Do you understand the
 24 distinction?
 25 THE WITNESS: I think.

Page 36

1 MR. GIDEON: Okay.
 2 Q. (By Mr. Nolan) Are you able to answer the
 3 question?
 4 A. We did not change any procedure after the
 5 meningitis outbreak.
 6 Q. Does St. Thomas Neurosurgical have a
 7 quality improvement committee?
 8 A. It's part of my MEC committee.
 9 Q. Who is on the governing board of St. Thomas
 10 Neurosurgical?
 11 A. Dr. Greg Lanford, Scott Butler, Bernie
 12 Sherry, Craig Polkow.
 13 Q. All right. And who is Mr. Sherry?
 14 A. I believe he's CEO of St. Thomas Health
 15 Services.
 16 Q. All right. In 2011 and 2012, who were the
 17 members of the St. Thomas Neurosurgical board?
 18 A. Greg Lanford, Scott Butler, Dr. Dale
 19 Batchelor and Alan Strauss.
 20 Q. Okay. All right. So Greg Lanford is the
 21 president of Howell Allen Clinic; is that correct?
 22 A. That is correct.
 23 Q. And Scott Butler, is he the CFO of Howell
 24 Allen Clinic?
 25 A. Yes.

Page 37

1 Q. And Dale Batchelor is the chief medical
2 officer for St. Thomas Hospital; true?
3 A. At that time, he was.
4 Q. Okay. At that time. And then Alan
5 Strauss? What was his position? Who is he?
6 A. He was the CFO for St. Thomas Health.
7 Q. All right. And so then I take it at some
8 point Mr. Polkow became the CFO of St. Thomas Health
9 and took Mr. Strauss's place; is that correct?
10 A. That is correct.
11 Q. Are your duties today at St. Thomas
12 Neurosurgical basically the same as they were in 2011
13 and 2012?
14 A. Yes, they are.
15 Q. As the facility director for St. Thomas
16 Neurosurgical, were you in part responsible for
17 helping that entity function within a particular
18 financial budget?
19 A. I did not have to deal with the budget.
20 Q. Were you responsible in part for paying
21 attention to the cost of the supplies you used by that
22 facility?
23 A. Yes.
24 Q. All right. And who first explained to you
25 that that was part of your responsibility, to pay

Page 39

1 at the MEC meeting or at the board meeting if there
2 were questions.
3 Q. And would you typically attend meetings of
4 the St. Thomas Neurosurgical board?
5 A. Yes.
6 Q. All right. And how often would you attend
7 those meetings?
8 A. We had the meetings quarterly.
9 Q. And where would the meetings occur?
10 A. The meetings occurred in the board room of
11 St. Thomas Hospital.
12 Q. All right. And who would keep the minutes
13 for those meetings?
14 A. I would keep the minutes.
15 Q. Could you give us an example of when any of
16 your superiors contacted you about some sort of a
17 problem?
18 A. There's none that I recall at the moment.
19 Q. So you never recall ever experiencing a
20 problem in the workplace; is that your testimony?
21 A. I cannot recall specific ones.
22 Q. Have you ever received any accolades from
23 your superiors about the fact that you had
24 successfully been able to contain costs or save either
25 Howell Allen or St. Thomas money at some point?

Page 38

1 attention to the cost of supplies?
2 A. That is just part of a director or
3 manager's role.
4 Q. And were you encouraged to control cost
5 when possible?
6 A. No.
7 Q. So the -- your supervisors, your bosses,
8 the board and so forth, they never encouraged you to
9 control costs?
10 A. They trusted my judgment.
11 Q. Did you endeavor to control costs?
12 A. Yes.
13 Q. How were you -- how were you evaluated by
14 your superiors?
15 A. If there was an issue, I was contacted.
16 That was...
17 Q. Well, did you have annual evaluations, for
18 example?
19 A. No.
20 Q. All right. So there was never any process
21 whereby you would be periodically evaluated by your
22 superiors and they would tell you what you're doing
23 well, how you can improve, what your pay raise might
24 be, anything like that?
25 A. If there was an issue, we would discuss it

Page 40

1 A. I'm not sure what -- rephrase for me,
2 please.
3 Q. Sure. Have you ever gotten a pat on the
4 back or a compliment from any of your superiors
5 because you were successful in saving money for Howell
6 Allen Clinic or St. Thomas Neurosurgical?
7 A. No.
8 Q. Now, as I understand your testimony, St.
9 Thomas Neurosurgical is located on the St. Thomas
10 Hospital campus; is that true?
11 A. That is true.
12 Q. And it's on the 9th floor of one of the
13 buildings there on the campus; is that true?
14 A. That is true.
15 Q. And when people come to that facility to
16 receive an epidural steroid injection, I assume they
17 usually park somewhere on the campus; is that true?
18 A. That is true.
19 Q. All right. And so then when they -- when
20 they come in the front door of the -- of the facility,
21 they see a sign that says St. Thomas Outpatient
22 Neurosurgical Center; is that correct?
23 A. On the 9th floor.
24 Q. On the 9th floor; is that correct?
25 A. That is correct.

1 Q. All right. And would I be correct that as
 2 patients enter the building, they see the words "St.
 3 Thomas" in a lot of different places; is that true?
 4 A. I -- yes, sir.
 5 Q. All right. Let me make a photograph which
 6 we'll make Exhibit No. 23, and ask you to tell us what
 7 it is.
 8 (Exhibit 23 was marked for
 9 identification.)
 10 MR. GIDEON: Is this already Bates
 11 stamped?
 12 MR. NOLAN: Yes.
 13 MR. GIDEON: What's the Bates number?
 14 MR. NOLAN: This is Bates No. 750,
 15 STOPNC_750.
 16 MR. REHNQUIST: What's the exhibit
 17 number, please?
 18 MR. NOLAN: 750.
 19 MR. GIDEON: No, he asked the exhibit
 20 number, not the Bates number.
 21 MR. NOLAN: This is 23.
 22 MR. GIDEON: I'm fine. There's so
 23 many people, you can just pass those down.
 24 If you give us the Bates number, I'll pull
 25 it up on the screen.

1 MR. NOLAN: That's fair enough.
 2 Thank you. That makes it easier.
 3 Q. (By Mr. Nolan) Tell us about this exhibit.
 4 What is this?
 5 A. This is the sign on the door leading into
 6 the center, into the -- where they enter the waiting
 7 room.
 8 Q. Okay. And is there a reception area?
 9 A. After you go through the door into another
 10 door, there is a reception area.
 11 Q. Okay. And was there a woman named Sherri
 12 DeZwaan who worked as a receptionist for a while at
 13 St. Thomas Neurosurgical?
 14 A. There was a -- one of my secretaries or
 15 administrative assistants, Sherri DeZwaan, was
 16 employed there with me.
 17 Q. And did she work as a receptionist?
 18 A. Occasionally.
 19 Q. All right. So she would sit at the front
 20 desk and greet patients when they came in for their
 21 epidural steroid injections; is that true?
 22 A. Only if she was relieving.
 23 Q. Okay. Well, did you know that St. Thomas
 24 Neurosurgical, in a sworn interrogatory response in
 25 connection with this litigation, referred to Ms.

1 DeZwaan as a receptionist?
 2 A. She did reception work. She did
 3 secretarial work. She did front desk work.
 4 Q. All right. So do you know why St. Thomas
 5 Neurosurgical attached the label receptionist to Ms.
 6 DeZwaan?
 7 A. I think some of that is just a graphic of
 8 words. It's not -- she did play receptionist at some
 9 times and she had multiple duties. That was just one
 10 of the words we use to describe her.
 11 Q. Okay. Let me give you a group of documents
 12 that we're going to make Exhibit No. 24. And the one
 13 on top is Bates numbered STOPNC_940. I'm going to
 14 hand that to you now. And I'm going to ask you if
 15 this appears to be a photocopy of the name tags of the
 16 people who worked in St. Thomas Neurosurgical, with
 17 Ms. DeZwaan's name tag on top?
 18 (Exhibit 24 was marked for
 19 identification.)
 20 MR. GIDEON: You need to listen to
 21 his question before you start looking at
 22 the documents. Did you understand what he
 23 said?
 24 THE WITNESS: Yes, this is Sherri
 25 DeZwaan.

1 MR. GIDEON: There's more to it than
 2 that. Ask the question again.
 3 MR. NOLAN: Sure. I'll be happy to.
 4 Q. (By Mr. Nolan) And to make sure we
 5 understand what you just said, Sherri DeZwaan's name
 6 tag is on top of the stack I've handed you as
 7 Exhibit 24; is that correct?
 8 A. That is correct.
 9 Q. All right. And look through the remainder
 10 of that and tell us whether this appears to be the
 11 name tags of people who worked at St. Thomas
 12 Neurosurgical.
 13 Let's just take it one at a time if we
 14 could. Sherri DeZwaan is on top and then a man named
 15 Art Arcinas is the second?
 16 A. Arcinas.
 17 Q. Did he work there?
 18 A. Yes, he did.
 19 Q. And then Royal Barrow, did he work there?
 20 A. Yes, he did.
 21 Q. All right. And then Julie Coleman, did she
 22 work there?
 23 A. Yes, she did.
 24 Q. All right. And then Bobbi Doty, did she
 25 work there?

Page 45

1 A. Yes.
 2 Q. What's her job?
 3 A. During that time period or at the present?
 4 Q. During that time period, 2011 and 2012.
 5 A. She worked in the -- with pain -- in the
 6 pain clinic and she was also a scheduler.
 7 Q. All right. And Renae Ferguson, did she
 8 work there?
 9 A. Yes.
 10 Q. What about Linda Forrest apparently?
 11 A. Yes.
 12 Q. Okay. And Dawn Hall, did she work there?
 13 A. Yes.
 14 Q. Okay. Greta Hallman, did she work there?
 15 A. Yes.
 16 Q. And Sandy Littleton, did she work there?
 17 A. Yes.
 18 Q. What was her job?
 19 A. She was a staff nurse.
 20 Q. All right. Christine Mayhew, did she work
 21 there?
 22 A. Yes.
 23 Q. Cindy McLendon, did she work there?
 24 A. Yes.
 25 Q. What was her job?

Page 47

1 been able to see this name tag that she would have
 2 affixed to her shirt or blouse in some way; is that
 3 true?
 4 A. That is true.
 5 MR. SCHRAMEK: Objection to form.
 6 Q. (By Mr. Nolan) And did the Howell Allen
 7 Clinic ask Ms. DeZwaan to wear a name tag like this so
 8 that patients would understand that St. Thomas
 9 Neurosurgical was actually a part of St. Thomas
 10 Hospital?
 11 MR. SCHRAMEK: Objection to form.
 12 THE WITNESS: No.
 13 Q. (By Mr. Nolan) Was there any signage
 14 posted in St. Thomas Neurosurgical designed to inform
 15 patients that St. Thomas Neurosurgical was somehow
 16 separate from St. Thomas Hospital and St. Thomas
 17 Health?
 18 A. I -- not necessary. Our name says who we
 19 are.
 20 Q. There may be a dispute about whether it's
 21 necessary, but my question is: Was there any signage
 22 designed to inform patients that St. Thomas
 23 Neurosurgical was somehow separate from St. Thomas
 24 Hospital and St. Thomas Health?
 25 A. No.

Page 46

1 A. She's a staff nurse.
 2 Q. Rhonda McNally?
 3 A. Yes.
 4 Q. Dot Pemerton?
 5 A. Yes.
 6 Q. Dawn Woodard?
 7 A. Yes.
 8 Q. There's you, Ms. Schamberg; correct?
 9 A. Correct.
 10 Q. All right. And then we have Dr.
 11 Culclasure; is that correct?
 12 A. That is correct.
 13 Q. And, now, Ms. DeZwaan's name tag on top
 14 says at the top of the name tag St. Thomas Hospital.
 15 Do you see that?
 16 A. Yes.
 17 Q. All right. Why is that? Why does it say
 18 St. Thomas Hospital above St. Thomas Outpatient
 19 Surgery Center?
 20 A. I am assuming because she's at the St.
 21 Thomas office for the Howell Allen Clinic.
 22 Q. Okay. So am I correct that if a patient
 23 walked into the St. Thomas Outpatient Neurosurgical
 24 Center, they may have been greeted by Ms. DeZwaan as a
 25 receptionist at the front desk and they would have

Page 48

1 Q. And why does Ms. DeZwaan's name tag not
 2 include Howell Allen if it was supposed to designate
 3 that she worked at Howell Allen Clinic St. Thomas
 4 office?
 5 A. I cannot answer that.
 6 Q. Who would know that?
 7 A. That would be -- the name tags come from
 8 human resources.
 9 Q. All right. And who in human resources
 10 should we contact?
 11 A. Marlese Allen.
 12 Q. Marlese Allen?
 13 A. Correct.
 14 Q. Who does she work for?
 15 A. She works for Howell Allen Clinic.
 16 Q. And Ms. DeZwaan, was her employer -- who
 17 was her employer? Who did she get her paycheck from?
 18 A. Howell Allen Clinic.
 19 Q. Was that true for everyone who worked in
 20 the facility?
 21 A. That is true.
 22 Q. What is your understanding of how many
 23 people died after receiving epidural steroid
 24 injections at St. Thomas Neurosurgical?
 25 A. There were 13.

Page 49

1 Q. What's your understanding of how many
 2 people suffered fungal meningitis infections in
 3 addition to the ones who died after receive -- after
 4 receiving those injections -- epidural steroid
 5 injections at that particular clinic?
 6 A. I don't have the exact number.
 7 Q. Are there any neurosurgeons who currently
 8 work at St. Thomas Neurosurgical?
 9 A. All of the neurosurgeons have consulting
 10 privileges.
 11 Q. Right, I understand that. But are there
 12 any of them that actually provide treatment to
 13 patients at St. Thomas Neurosurgical now?
 14 A. No.
 15 Q. All right. And so why is it that that
 16 entity is licensed as an ambulatory surgery center,
 17 but there are no neurosurgeons who actually treat
 18 patients there?
 19 A. We operate as an ambulatory surgery center.
 20 We follow all of the regulations for an ambulatory
 21 surgery center.
 22 Q. Even though neurosurgeons don't perform
 23 surgery there; is that correct?
 24 A. That is correct.
 25 Q. In addition to epidural steroid injections,

Page 51

1 problems?
 2 A. We have been surveyed by the Department of
 3 Health. Yes, there are -- there were minor issues.
 4 Q. All right. Let me -- let me hand you a
 5 document that we'll make Exhibit No. 26, which is
 6 actually St. Thomas entities 3668. Let me hand this
 7 to you and let you tell us what that is.
 8 (Exhibit 26 was marked for
 9 identification.)
 10 MR. CLINE: George, do you have
 11 another copy of that?
 12 MR. NOLAN: Yes.
 13 MR. GIDEON: Let me see the date.
 14 2007?
 15 THE WITNESS: Uh-huh (affirmative).
 16 MR. REHNQUIST: Sorry, George, what
 17 was this exhibit number?
 18 MR. NOLAN: This would be 26.
 19 THE WITNESS: Now, what was your
 20 question again, sir?
 21 Q. (By Mr. Nolan) What is this?
 22 A. This is a letter from the State Department
 23 of Health and Regulations.
 24 Q. Okay. Do you recall this letter?
 25 A. No, sir.

Page 50

1 are there any other types of procedures that were
 2 performed at St. Thomas Neurosurgical in 2011 and
 3 2012?
 4 A. Denervations and stem trial.
 5 Q. Stem what?
 6 A. Stem trials.
 7 Q. Denervations and stem trials?
 8 A. Correct.
 9 Q. What's a stem trial?
 10 A. Patients that are being evaluated for a
 11 spinal cord stimulator.
 12 Q. And what is a denervation?
 13 A. It's a burning of the ancillary nerve
 14 that's causing the pain.
 15 Q. And I take it -- well, let me do this,
 16 before we move to a different area, let me hand you a
 17 document which we'll make Exhibit No. 25, which is
 18 Bates number STOPNC_408. And let me just ask you if
 19 this is a copy of your resumé?
 20 (Exhibit 25 was marked for
 21 identification.)
 22 THE WITNESS: Yes, it is.
 23 Q. (By Mr. Nolan) And has St. Thomas
 24 Neurosurgical ever been found by the Department of
 25 Health to have any particular deficiencies or

Page 52

1 Q. It talks about an enclosed statement of
 2 deficiencies. Do you see that?
 3 A. Yes.
 4 Q. Do you know where that document is?
 5 A. No.
 6 Q. Is that something that you would expect to
 7 be maintained in the files of St. Thomas
 8 Neurosurgical?
 9 A. I don't know. I was not director there at
 10 that time.
 11 Q. Okay. I understand. Okay. You didn't go
 12 there until 2009 as director; is that correct?
 13 A. That is correct.
 14 Q. Okay. Fair enough.
 15 Would I be correct in understanding that
 16 St. Thomas Neurosurgical does track the volume of
 17 epidural steroid injections and other procedures that
 18 it performs?
 19 A. That is correct.
 20 Q. And am I correct in understanding that in
 21 the 2011 and 2012 time frame, St. Thomas Neurosurgical
 22 averaged in the neighborhood of 450 to 500 epidural
 23 steroid injections a month?
 24 A. I'd have to see the spreadsheet to answer
 25 correctly.

Page 53

1 Q. Well, let me -- let me hand you a document
 2 that we'll make Exhibit No. 27, and this is STOPNC_889
 3 and the subsequent pages. I'll hand that to you.

4 (Exhibit 27 was marked for
 5 identification.)

6 THE WITNESS: Okay.

7 Q. (By Mr. Nolan) Can you tell us what that
 8 is.

9 A. This is an e-mail that I exchanged with
 10 Bruce Stock of Henry Schein.

11 Q. Okay. And what is Henry Schein?

12 A. It's a supplier of medical supplies.

13 Q. Okay. And this is an e-mail dated in
 14 July 2011; is that correct?

15 A. Correct.

16 Q. And at that time, you tell Mr. Stock that
 17 "We average 450 to 500 procedures a month." Do you
 18 see that?

19 A. Yes.

20 Q. And are those procedures epidural steroid
 21 injections?

22 A. Yes.

23 Q. And then you give him a list of medications
 24 about which you are apparently making pricing
 25 inquiries; is that right?

Page 54

1 A. That is correct.

2 Q. And is inquiring about price one of the
 3 ways that you would help Howell Allen Clinic control
 4 the costs at St. Thomas Neurosurgical?

5 A. Well, yes.

6 Q. Okay. And so -- and you indicate that
 7 you-all used 500 to 700 vials of either Depo-Medrol or
 8 methylprednisolone, 80 milligrams a month; is that
 9 correct?

10 A. That is correct.

11 Q. So does that refresh your memory about
 12 generally how many procedures that you were doing at
 13 that period of time?

14 A. Yes, that seems correct.

15 Q. What -- would I be correct in understanding
 16 that epidural steroid injections comprises the
 17 overwhelming majority of revenues generated at St.
 18 Thomas Neurosurgical?

19 A. Yes, I believe it does.

20 Q. And what percentage of revenues would you
 21 estimate are attributable to epidural steroid
 22 injections as opposed to some other procedure?

23 A. Now, I don't -- I don't have the
 24 percentages. To what other procedures are we...

25 Q. Well, you mentioned the stem trials and the

Page 55

1 denervations.

2 A. Okay.

3 Q. And I understand -- I'm not asking you for
 4 an exact number.

5 A. Okay.

6 Q. And if you don't know, just say that. But
 7 my question is what's your estimate of the percentage
 8 of revenues that are attributable to epidural steroid
 9 injections?

10 A. I probably -- I can't answer that for sure.

11 Q. And St. Thomas Neurosurgical provides
 12 epidural steroids to patients in exchange for money;
 13 correct?

14 A. That is correct.

15 Q. And it's a for-profit entity, St. Thomas
 16 Neurosurgical; is that correct?

17 A. That is correct.

18 Q. Now, you understand that a steroid, which
 19 is at issue in this litigation is known as -- I might
 20 mispronounce it and if I do, I apologize. But I say
 21 methylprednisolone acetate. Have I said it correctly?

22 A. Yes.

23 Q. And it's abbreviated MPA; is that correct?

24 A. That is correct.

25 Q. Who is it that decided that St. Thomas

Page 56

1 Neurosurgical would purchase MPA from New England
 2 Compounding Center, what we call NECC?

3 A. That was -- after conferring with Dr.
 4 Culclasure, it was his decision and my decision.

5 Q. So other than you and Dr. Culclasure, were
 6 there any other persons employed by Howell Allen
 7 Clinic or St. Thomas Neurosurgical or any of the
 8 other -- well, any other persons other than you and
 9 Dr. Culclasure who made that decision?

10 A. No.

11 Q. Why did you and Dr. Culclasure decide that
 12 St. Thomas Neurosurgical would buy MPA from NECC?

13 A. There was a shortage of MPA. MPA also from
 14 NECC offered a true preservative-free in their
 15 steroid.

16 Q. All right. Any other reasons?

17 A. Those are the main reasons.

18 Q. Price was not a primary factor; is that
 19 true?

20 A. That's true.

21 Q. Tell us about the shortage.

22 A. We had ordered from our other vendor and
 23 were unable to get the quantity that we needed.

24 Q. Okay. Who was your other vendor?

25 A. We were using Clint.

Page 57

1 Q. Clint Pharmaceuticals?
 2 A. Clint Pharmaceuticals.
 3 Q. What is Clint Pharmaceuticals?
 4 A. It's a supplier of medication.
 5 Q. Okay. It's not a pharmacy, is it?
 6 A. No.
 7 Q. All right. Any other vendors you were
 8 using?
 9 MR. GIDEON: Objection to form. Just
 10 for MPA or anything?
 11 THE WITNESS: Yeah.
 12 MR. NOLAN: MPA.
 13 THE WITNESS: We previously ordered
 14 from CuraScript. That's it.
 15 Q. (By Mr. Nolan) All right. At any point in
 16 time before switching from Clint Pharmaceuticals to
 17 NECC, did St. Thomas Neurosurgical have to close or
 18 decline to schedule patients because it could not
 19 obtain an adequate supply of either Depo-Medrol or
 20 MPA?
 21 A. No.
 22 Q. And am I correct in understanding that
 23 because of the fungal meningitis outbreak, St. Thomas
 24 Neurosurgical closed for business on September 20th,
 25 2012?

Page 58

1 A. That is true.
 2 Q. All right. And am I correct in
 3 understanding that immediately St. Thomas
 4 Neurosurgical ordered replacement steroids; is that
 5 true?
 6 A. That is true.
 7 Q. And did they order replacement steroids
 8 from a supplier known as PSS; is that true?
 9 A. That's true, yes.
 10 Q. And you were in charge of that; correct?
 11 A. I do not -- I did not do the ordering of
 12 that.
 13 Q. But were you ultimately in charge of
 14 finding a replacement supplier of appropriate
 15 steroids?
 16 A. I was not there the day they ordered the
 17 replacements.
 18 Q. Okay. Did you become aware of it after
 19 they did?
 20 A. Yes.
 21 Q. All right. And how long did it take the
 22 replacement steroids from PSS to arrive?
 23 A. I do not know.
 24 Q. Were they there in time for you to reopen
 25 on November the 1st, 2012?

Page 59

1 A. Yes, they were.
 2 Q. Okay. And did you-all then, over the month
 3 of November, begin ramping back up on your volumes of
 4 epidural steroid injections, so to speak?
 5 A. It was a gradual increase.
 6 Q. All right. By the time December of 2012
 7 rolled around, were you back at full force performing
 8 approximately 484 epidural steroid injections that
 9 month?
 10 A. No.
 11 Q. You were not?
 12 A. We were not.
 13 (Exhibit 28 was marked for
 14 identification.)
 15 Q. (By Mr. Nolan) Okay. Let me hand you a
 16 document, Ms. Schamberg, and we're going to make this
 17 Exhibit No. 28. And this is found at STOPNC_3774.
 18 And can you tell us what this is.
 19 Ms. Schamberg, I've asked you what --
 20 A. This is the monthly stats for the facility,
 21 but I don't know the year.
 22 Q. Okay. May I see that exhibit for a moment?
 23 A. (The witness complies.)
 24 Q. Ms. Schamberg, I intended to hand you the
 25 spreadsheet of the monthly stats, but our copy service

Page 60

1 has attached three pages that are not included. So
 2 I'm going to remove that now and I'm going to hand it
 3 back to you.
 4 All right. So this appears to be monthly
 5 statistics; correct?
 6 A. That is correct.
 7 Q. All right. So let's look at the months of
 8 September. The outbreak first became known to you in
 9 September of 2012; correct?
 10 A. That is correct.
 11 Q. And this monthly spreadsheet, this is an
 12 Excel spreadsheet; is that right?
 13 A. That is correct.
 14 Q. All right. And is this a spreadsheet
 15 that's maintained by St. Thomas Neurosurgical?
 16 A. Yes.
 17 Q. Who's in charge of maintaining these types
 18 of spreadsheets?
 19 A. At that time, Sherri DeZwaan.
 20 Q. Okay. And did she report to you?
 21 A. Yes.
 22 Q. All right. And does she no longer work for
 23 St. Thomas Neurosurgical?
 24 A. No.
 25 Q. Why did she leave?

Page 61

1 A. She went back to work at the Howell Allen
2 Clinic.
3 Q. Okay.
4 A. This is not right.
5 Q. If we look here for the September page, you
6 see it reflects that the clinic was closed it looks
7 like beginning actually September 21st. Do you see
8 that?
9 A. Yes.
10 Q. And it remained closed for the rest of that
11 month; correct?
12 A. Correct.
13 Q. So does that indicate to you that this is
14 apparently for the year 2011?
15 A. No.
16 Q. All right. Well, then look at the next --
17 I mean, excuse me. 2012.
18 A. That would be correct.
19 Q. All right. And then the next page,
20 October, shows that the clinic was closed that entire
21 month; is that correct?
22 A. That is correct.
23 Q. And then the next page for November
24 indicates that the clinic began to open somewhat on an
25 intermittent basis in November of 2012; correct?

Page 62

1 A. Correct.
2 Q. And then this spreadsheet indicates that in
3 December of 2012, a total of 482 procedures were
4 performed; correct?
5 A. This is not the spreadsheet for December of
6 2012. This is, I'm thinking, the spreadsheet for
7 2011.
8 Q. All right. Well, why would -- why would
9 your company produce to us a 12-month spreadsheet that
10 appears to include September, October and November of
11 2012 and then tack on to the end of it December of
12 2011?
13 A. The secretary many times would keep the
14 same spreadsheet, and then when the month started she
15 would just clear the entry and use the same date.
16 Q. Do you know that's the truth -- the true
17 explanation or are you speculating?
18 A. I know that's how she did it, but I do not
19 know on this particular document -- I -- I don't -- I
20 do not feel this is December 2012.
21 Q. All right. Okay. But do you agree that to
22 someone who didn't have that type of inside knowledge,
23 it would appear that in December of 2012 482
24 procedures were performed at St. Thomas Neurosurgical?
25 A. But it doesn't say 2012 on here, so...

Page 63

1 Q. Right. It's the last page of a group -- a
2 12-month spreadsheet that does include 2012 numbers;
3 is that true?
4 A. The other dates appear to be correct.
5 Q. All right.
6 A. All but the December.
7 Q. Okay. So you're saying that every month in
8 this spreadsheet is 2012 except the last month? Is
9 that what your testimony is?
10 A. I would have to look at the -- it appears
11 to be that, but I can't guarantee. But I do not --
12 I -- I do not feel the last page is 2012.
13 Q. Are you certain about that?
14 A. Yes.
15 Q. All right. Well, how many epidural steroid
16 injections were performed in December of 2012?
17 A. I do not know.
18 Q. What would be your best estimate?
19 A. Maybe 200, if that many. I don't -- I
20 don't recall.
21 Q. All right. And what about for January of
22 2013?
23 A. I do not -- I don't know how many we did.
24 Q. All right. What about last month?
25 A. I don't know the exact number. It was

Page 64

1 under 400, if that's what you're asking.
2 Q. Well, in 2013, what was -- I mean, what
3 would be your estimate of St. Thomas Neurosurgical's
4 monthly average for epidural steroid injections?
5 A. Guesstimation would be around 300.
6 Q. Why the difference?
7 A. Not as many on our schedule.
8 Q. Okay. Would I be correct in understanding
9 that most of St. Thomas Neurosurgical's epidural
10 steroid injection patients are referred by Howell
11 Allen Clinic neurosurgeons?
12 A. That is correct.
13 Q. And would that be the overwhelming majority
14 of St. Thomas Neurosurgical epidural steroid
15 recipients?
16 A. That is correct.
17 Q. Do you know whether patients of those
18 Howell Allen Clinic neurosurgeons are ever informed
19 that Howell Allen Clinic owns part of St. Thomas
20 Neurosurgical when doctors send patients there?
21 A. We inform the patient when they come.
22 Q. All right. What are you referring to?
23 A. That Howell Allen has part ownership into
24 the St. Thomas Outpatient Neurosurgical Center.
25 Q. And how do you do that?

Page 65

1 A. It's on their consent when they do their
2 consent.
3 Q. Any other method other than the consent
4 form that you convey that information to the patients?
5 A. When we send them information regarding
6 their appointment, it is in a Howell Allen envelope.
7 Q. Okay. And do you also tell the patients
8 that St. Thomas has a part ownership of St. Thomas
9 Neurosurgical?
10 A. No, not normally.
11 Q. Any particular reason why not?
12 A. We feel that the -- they need to know that
13 their surgeon has sent them there and has ownership
14 interest in it.
15 Q. All right. Now, you mentioned that you and
16 Dr. Culclasure made the decision for your clinic to
17 buy MPA from NECC, and I believe that the two reasons
18 you gave when I asked you why you made that decision
19 were shortage and the fact that NECC offered a
20 preservative-free -- offered preservative-free MPA; is
21 that correct?
22 A. That is correct.
23 Q. And what is the function of having
24 preservative in that particular steroid?
25 A. I -- I can't answer.

Page 67

1 is that correct?
2 A. Some of -- of our -- was by Pfizer, not all
3 of it.
4 Q. Right. Some of it was made by Pfizer;
5 correct?
6 A. Some was made by Pfizer.
7 Q. And where did you get the Depo-Medrol that
8 was made by Pfizer?
9 A. CuraScript, I believe.
10 Q. Okay. And then in addition to the -- well,
11 the Depo-Medrol made by Pfizer had preservatives in
12 it; correct?
13 A. It's considered preservative-free, but
14 there is a preservative in it.
15 Q. There is a preservative in it?
16 A. Yes.
17 Q. And that would include single-dose vials of
18 Depo-Medrol; correct?
19 A. That is correct.
20 Q. And did you understand that the purpose of
21 having some preservative in those single-dose vials
22 was to preserve the sterility and safety of the
23 solution?
24 A. I have no -- I can't answer that with
25 knowledge if that's why they put that in there.

Page 66

1 Q. All right. Well, did you understand that
2 the purpose of having a preservative in MPA was to
3 preserve the sterility and safety of the solution?
4 A. You put -- there are multiple medications
5 that are preservative-free on the market.
6 Q. That wasn't my question. My question was:
7 Did you understand that the function of having a
8 preservative in MPA was to preserve the sterility and
9 safety of the solution?
10 A. Yes, especially on a multidose vial.
11 Q. And that's -- the same would be true on a
12 single-dose vial; correct?
13 A. I cannot answer on that. But you -- I know
14 you have preservatives for a multidose vial.
15 Q. Well, as I understand it, your clinic was
16 providing either Depo-Medrol or generic MPA to
17 patients before you and Dr. Culclasure decided to
18 switch to NECC as your supplier of MPA in June of
19 2011; is that correct?
20 A. We had other suppliers.
21 Q. Right.
22 A. Correct, we did.
23 Q. And those other suppliers, CuraScript and
24 Clint Pharmaceutical, they were supplying at times
25 brand name Depo-Medrol which is a drug made by Pfizer;

Page 68

1 Q. Okay. Did you understand that when
2 preservatives are not included in the solution, that
3 germs have an increased opportunity to grow and thrive
4 in the solution?
5 A. No.
6 Q. Did anyone provide you any training
7 whatsoever about the purpose of having a preservative
8 in a vial of Depo-Medrol?
9 A. No.
10 Q. Did you and Dr. Culclasure discuss the
11 risks of switching to a preservative-free solution
12 when you decided to start buying from NECC?
13 A. By not having the preservative in there,
14 which is an alcohol, that's better for the patient not
15 to have a true preservative-free.
16 Q. Am I correct in understanding that when you
17 started buying these drugs from NECC, it was the first
18 time that your clinic began using preservative-free
19 MPA; is that correct?
20 A. No. Depo-Medrol and the other -- well, the
21 Depo-Medrol is considered preservative-free.
22 Q. But it contains preservatives; correct?
23 A. It says it contains alcohol.
24 Q. Okay. And was the same true from the
25 generic -- for the generic MPA that you were receiving

Page 69

1 from Clint Pharmaceuticals?
 2 A. Yes.
 3 Q. Okay. And who made that product?
 4 A. I don't know. Right off the top of my
 5 head, I do not know.
 6 Q. Was it made by a company called TEVA?
 7 A. I know we've got -- we received some from
 8 TEVA.
 9 Q. And did you receive some from TEVA from
 10 Clint Pharmaceuticals?
 11 A. I do not recall.
 12 Q. Okay. Do you recall receiving some from
 13 any other -- receiving generic MPA from any other
 14 pharmaceutical companies in addition to TEVA?
 15 A. I don't remember.
 16 Q. But you do remember that that generic MPA
 17 likewise did contain a small amount of alcohol?
 18 A. Yes.
 19 Q. Okay. And so when you decided to buy
 20 medicines from NECC, that was the first time that your
 21 clinic decided to purchase MPA that had zero alcohol
 22 in it as a preservative; is that correct?
 23 A. That is true.
 24 Q. Okay. And did you and Dr. Culclasure
 25 discuss the risk that would be posed by procuring this

Page 70

1 particular solution, this MPA from a compounding
 2 pharmacy that uses zero alcohol in the solution? Did
 3 you talk about those risks?
 4 A. No.
 5 Q. Did you make any effort to learn about
 6 those risks?
 7 A. By not putting the alcohol in it?
 8 Q. Yes.
 9 A. No. That was not in my...
 10 Q. And so when you made this switch in June of
 11 2011, would it be correct for me to understand that
 12 your clinic by that point in time had given thousands
 13 of epidural steroid injections using either
 14 Depo-Medrol by Pfizer or generic MPA made by a
 15 pharmaceutical company all of which contained small
 16 amounts of alcohol as a preservative?
 17 A. That is correct.
 18 Q. Any problems?
 19 A. None that I'm aware of.
 20 Q. All right. So you've told us that you and
 21 Dr. Culclasure made the decision to buy truly
 22 preservative-free MPA from the compounding pharmacy
 23 known as NECC. Walk us through that decision. Tell
 24 us exactly how it unfolded.
 25 A. There was a shortage of steroid,

Page 71

1 Depo-Medrol. We were having trouble obtaining it. I
 2 had met NECC at a seminar that I had gone to and we
 3 had discussed this.
 4 Q. How did you learn about the shortage?
 5 A. When an order was placed, they -- they
 6 didn't send all of it. I don't remember exactly, but
 7 I did speak with them regarding this.
 8 Q. Who are you talking about?
 9 A. I spoke to Clint Pharmaceuticals.
 10 Q. Who did you talk to?
 11 A. I don't remember the person.
 12 Q. When did you talk to them?
 13 A. I don't know exactly. It was May, June. I
 14 don't know. I don't know the exact date.
 15 Q. Did you talk with anybody else about this
 16 purported shortage?
 17 A. I spoke with NECC.
 18 Q. Okay. Who at NECC?
 19 A. John --
 20 MR. GIDEON: Try your best to
 21 pronounce the last name.
 22 THE WITNESS: Let's see. Notarianni.
 23 Notarianni.
 24 Q. (By Mr. Nolan) All right. So other than
 25 someone whose name you don't recall at Clint

Page 72

1 Pharmaceuticals and a sales representative at NECC,
 2 you did not talk with anybody else about the so-called
 3 shortage before you started ordering from NECC; is
 4 that true?
 5 A. Not that I recall.
 6 Q. How many conversations with Clint
 7 Pharmaceuticals about shortage did you have?
 8 A. I don't know.
 9 Q. Let me hand you a document we'll make
 10 Exhibit No. 29. I'm going to hand you a document
 11 we'll make Exhibit No. 29.
 12 A. Okay.
 13 Q. But before I do, I want to make sure we're
 14 clear on one point. As I understand it, the only two
 15 people who ever said anything to you about a shortage
 16 were someone with Clint Pharmaceutical and the
 17 gentleman, John that you mentioned with NECC; is that
 18 correct?
 19 A. That's all I recall at the moment.
 20 (Exhibit 29 was marked for
 21 identification.)
 22 Q. (By Mr. Nolan) Let me hand you this
 23 document, which is STOPNC_526, and can you tell me
 24 what this is.
 25 A. It's showing the purchases from 2008 to

1 2010 of MPA.

2 Q. All right. Who prepared this document?

3 A. I do not know.

4 Q. Okay. And do you know why it is that St.
5 Thomas Neurosurgical produced a spreadsheet that
6 stopped at the end of 2010?

7 A. I do not know.

8 Q. Does that spreadsheet appear to accurately
9 reflect the quantities and the source of either
10 Depo-Medrol or generic MPA that your clinic used
11 during the 2008 through 2010 time frame?

12 A. I -- I assume so.

13 (Exhibit 30 was marked for
14 identification.)

15 Q. (By Mr. Nolan) All right. Let me hand you
16 a document that we're going to make Exhibit No. 30,
17 and this is a spreadsheet that we've prepared, and --

18 MR. GIDEON: Is there a Bates stamp
19 number on it?

20 MR. NOLAN: No, there's not.

21 Q. (By Mr. Nolan) This is --

22 MR. NOLAN: Although --

23 MR. GIDEON: It's never been
24 produced.

25 Q. (By Mr. Nolan) The first page, this is

1 No. 31. Let me explain what we've tried to do with
2 this exhibit. What I've tried to do, Ms. Schamburg,
3 is to assemble all of the literature and information
4 that you-all have produced to us that apparently
5 you-all obtained from NECC and put it in one package.
6 And I'm not going to ask you to confirm that I've
7 gotten it all, but that's what we've tried to do. And
8 I'd like to talk with you about this exhibit for a
9 minute.

10 Now, the first -- we've numbered at the
11 bottom of the pages -- we put our own numbers on there
12 so we can kind of refer to the same pages. And the
13 first 13 pages of this exhibit, which start at
14 STOPNC_513, and go through STOPNC_525 appear to me to
15 be information which you received from a Mr. Jason
16 Salvucci of medical sales management, at least that's
17 what his e-mail address is from. But he says he's the
18 account manager of NECC.

19 Do you see that?

20 A. Yes.

21 Q. And do you recall receiving that
22 information?

23 A. No, not right off.

24 Q. All right. But when you received it, did
25 you review it?

1 what lawyers call a data compilation. It's our effort
2 to put on a spreadsheet information about the volume
3 and source of steroids for your clinic as reflected by
4 the invoices that were produced. So the invoices are
5 attached and they do have Bates numbers on them.

6 And I'm not going to ask you to vouch for
7 the accuracy of the front page spreadsheet, but
8 assuming as you look at the spreadsheet that the
9 amounts reflected are true, am I right in
10 understanding that although you heard about a shortage
11 from Clint Pharmaceuticals, you did have a steady
12 supply of either Depo-Medrol or generic MPA before you
13 made the switch to NECC in June of 2011?

14 A. I had -- yes, I did have a steady supply.

15 Q. Fair enough. Now, I would assume and I
16 understand that NECC provided you with some -- that
17 NECC provided you with some promotional materials
18 about their -- about the drugs that they wanted to
19 sell to you; is that correct?

20 A. They provided me with literature regarding
21 their...

22 (Exhibit 31 was marked for
23 identification.)

24 Q. (By Mr. Nolan) All right. Let me hand you
25 as the next exhibit what we're going to make Exhibit

1 A. Yes.

2 Q. Okay. And then if we look on the 14th
3 page, we have an e-mail from Mr. John Notarianni who
4 is indicated as the regional sales manager for medical
5 sales management representing NECC. And it looks like
6 he sent you an e-mail on March the 25th, 2011; is that
7 correct?

8 A. That is correct.

9 Q. All right. And he attached some literature
10 that goes through Page 17. Do you see that?

11 A. Yes.

12 Q. All right. And then if we look at the 18th
13 page, we have another e-mail from Mr. Notarianni
14 attaching some more information that appears to go
15 through Page 19. Do you see that?

16 A. Yes.

17 Q. All right. And then beginning at Page 20
18 through the end is a brochure from NECC that you
19 produced to us, and that document starts at
20 STOPNC_835. Do you see that?

21 A. Yes.

22 Q. All right. And so am I correct in
23 understanding that this collective exhibit that I've
24 handed you does consist of information that you
25 received from NECC at various points in time?

Page 77

1 A. That would be correct.
 2 Q. And you reviewed this information before
 3 you started ordering from NECC; is that true?
 4 A. That is true.
 5 Q. How many conversations did you have with
 6 Dr. Culclasure regarding whether it was a good idea to
 7 start ordering the truly preservative-free MPA from
 8 this New England Compounding Center?
 9 A. I have no idea.
 10 Q. What would be your best estimate?
 11 A. I don't know. I would say several.
 12 Q. Well, are you able to give us a number of
 13 how many conversations or even estimate a number?
 14 A. I would say probably four, five.
 15 Q. Over what period of time?
 16 A. Probably several weeks.
 17 Q. Why did you talk to him four or five times?
 18 A. The shortage that we were having.
 19 Q. Were you concerned about the shortage?
 20 A. Yes, I was.
 21 Q. Were you concerned that if -- if you didn't
 22 have enough MPA to inject into patients it could hurt
 23 the company's revenues?
 24 A. Not the company's revenue. We would not be
 25 able to treat the patients for their pain.

Page 79

1 NECC, what was your understanding of what a
 2 compounding pharmacy is?
 3 A. They just provided medication.
 4 Q. So at the time you and Dr. Culclasure made
 5 that joint decision, did you know that, according to
 6 the FDA, "Consumers need to be aware that compounded
 7 drugs are not FDA approved. This means that FDA has
 8 not verified their safety and effectiveness."
 9 Did you know that?
 10 A. I had no -- no.
 11 Q. You didn't know that. Okay. Did you --
 12 did you do any research regarding what the FDA had to
 13 say about compounding pharmacies?
 14 A. There -- no. There was no need.
 15 Q. Okay. Now, there may be a dispute about
 16 whether there was a need to do research in that
 17 regard, but the answer is you didn't do any research
 18 about what the FDA had to say about compounding
 19 pharmacies before you started buying this stuff from a
 20 compounding pharmacy; is that true?
 21 A. That is true. Yes, sir.
 22 Q. And so if I hand you this document that
 23 we're going to make Exhibit No. 32, this is a document
 24 that you did not see before you and Dr. Culclasure
 25 began or authorized your clinic to purchase this

Page 78

1 Q. So revenue was not a concern in the least
 2 when you learned about this so-called shortage; is
 3 that true?
 4 A. If we can't do procedures, then I have to
 5 lay off staff. We can't take care of our patients.
 6 Q. So does that mean, yes, you were concerned
 7 about revenues?
 8 A. Well, then, yes, from that aspect of it.
 9 Q. Other than Dr. Culclasure, did you speak
 10 with anyone else about whether it would be wise to
 11 purchase materials from NECC?
 12 A. Not that I recall.
 13 Q. Did you have any conversations with anybody
 14 at St. Thomas Hospital?
 15 A. No.
 16 Q. Did you have any conversations with anyone
 17 on the board of St. Thomas Neurosurgical?
 18 A. Regarding?
 19 Q. Regarding switching to NECC.
 20 A. No.
 21 Q. Did you have any conversations with any of
 22 the neurosurgeons at Howell Allen Clinic?
 23 A. No.
 24 Q. And at the time you and Dr. Culclasure made
 25 the decision to start purchasing this material from

Page 80

1 material from a compounding pharmacy; is that true?
 2 (Exhibit 32 was marked for
 3 identification.)
 4 THE WITNESS: That is true.
 5 Q. (By Mr. Nolan) Okay. Did you even know
 6 that information like this was available on the
 7 Internet?
 8 A. There's all information available on the
 9 Internet.
 10 Q. Okay. So I take it you did not do any
 11 Internet research regarding the safety or risks
 12 associated with compounding pharmacies; is that true?
 13 A. That's true. Didn't see the need.
 14 Q. All right. And so did you talk with
 15 Dr. Culclasure about whether he did any research
 16 regarding the risks associated with purchasing from
 17 compounding pharmacies?
 18 A. Not in regard to this.
 19 Q. All right. Let me hand you a document that
 20 we're going to make Exhibit No. 33. And I'm going to
 21 ask you if you had ever seen this document before your
 22 clinic started buying this truly preservative-free MPA
 23 from NECC?
 24 (Exhibit 33 was marked for
 25 identification.)

1 THE WITNESS: What are you asking me
 2 again, sir?

3 Q. (By Mr. Nolan) Did you ever see this
 4 document before you and Dr. Culclasure decided your
 5 clinic should purchase material from NECC?

6 A. Not that I recall.

7 Q. Okay. Does this appear to be a report
 8 published by the FDA?

9 A. It says it's an FDA survey.

10 Q. Could you read the first sentence into the
 11 record, please, under the executive summary.

12 A. "Several studies including a survey
 13 conducted by FDA in 2001 have reported quality
 14 problems with various pharmacy compounded drugs
 15 including subpotency, sub -- superpotency and
 16 contamination."

17 Q. So at the time that you and Dr. Culclasure
 18 decided to start purchasing material from NECC, did
 19 you understand that if these steroids were
 20 contaminated, if there were germs growing in the
 21 solutions and that solution was injected into the
 22 epidural space of a patient's spinal column, the
 23 patient could become infected and die? Did you
 24 understand that?

25 A. Patients can die from any medication that's

1 necessary.

2 Q. Did you check with any references provided
 3 to you by NECC?

4 A. No.

5 Q. Did you check with any other customers of
 6 NECC?

7 A. No.

8 Q. At the time you decided to purchase from
 9 NECC, were you even aware of the identity of any of
 10 NECC's other customers?

11 A. I don't recall.

12 Q. Did you contact the Tennessee Board of
 13 Pharmacy to see what they had to say about NECC?

14 A. I -- no, but I don't contact them on any
 15 medicines.

16 Q. All right. Did you contact the
 17 Massachusetts Board of Pharmacy at any time regarding
 18 NECC?

19 A. No.

20 Q. All right. Did you ever try to call the
 21 FDA to find out information about NECC?

22 A. No.

23 Q. Did you ask the sales representative
 24 whether NECC had ever been disciplined by either the
 25 FDA or the Massachusetts Board of Pharmacy?

1 injected. I'm not following you.

2 Q. Did you understand that if you're injecting
 3 a solution into the epidural space, it is particularly
 4 important that that solution be safe and sterile?

5 A. Yes.

6 Q. And did you understand that if the solution
 7 was not safe and sterile, the patient could contract a
 8 disease such as meningitis and die?

9 A. That would be true.

10 Q. And so what did you and Dr. Culclasure do
 11 in order to make sure that the solution that you were
 12 ordering from NECC would be safe and sterile before
 13 your clinic began injecting it into the spinal columns
 14 of patients?

15 A. NECC provided us literature showing that
 16 they had met the regulations.

17 Q. Okay. So other than reading NECC's
 18 literature and accepting it all as true, all at face
 19 value, did you do anything to verify the accuracy of
 20 any of NECC's statements?

21 A. I don't do that on any of the products.

22 Q. So is the answer no, you did nothing to
 23 verify the accuracy of any of the literature provided
 24 to you by NECC?

25 A. No, I did not. Did not feel it was

1 A. Not that I recall.

2 Q. All right. What questions do you recall
 3 asking the NECC sales representative?

4 A. I don't remember specific questions that I
 5 asked him. I don't remember specific questions that I
 6 asked him.

7 Q. Do you remember asking about price?

8 A. Yes, I do.

9 Q. Okay. And that's the only question you
 10 recall; is that correct?

11 A. Well, no, I would have asked the
 12 availability and the cost and we would have discussed
 13 the preservative-free.

14 MR. NOLAN: Why don't we take a short
 15 break.

16 THE WITNESS: Okay.

17 VIDEOGRAPHER: We're off the record.
 18 The time is 11:02 a.m. and this is the end
 19 of Tape No. 1.

20 (A recess was taken.)

21 VIDEOGRAPHER: Here begins Tape No. 2
 22 in the deposition of Debra Schamberg.
 23 We're back on the record and the time is
 24 11:18 a.m.

25 Q. (By Mr. Nolan) Ms. Schamberg, before we

Page 85

1 took our break, I believe you testified that the
 2 primary reasons that you and -- or that St. Thomas
 3 Neurosurgical switched from Clint Pharmaceuticals to
 4 NECC were the shortage that you talked about and the
 5 fact that NECC offered a truly preservative-free
 6 version of MPA.

7 Now I'd like to talk about all the factors.

8 What were all the factors that influenced St. Thomas
 9 Neurosurgical's decision to start buying from NECC?

10 A. There was a factor of price. Clint
 11 Pharmaceuticals increased their price drastically and
 12 told me they would continue to increase it due to
 13 supply and demand.

14 Q. So as I understand your testimony, before
 15 you decided to start buying from NECC, you knew that
 16 Clint Pharmaceuticals was increasing its price for
 17 generic MPA; is that correct?

18 A. That's correct.

19 Q. And it increased its price by an amount of
 20 \$2.49 a vial; is that true?

21 A. I'm not sure of the exact amount, but it
 22 was a substantial increase.

23 Q. And I think when we look at some documents,
 24 we'll be able to pin that down. But am I correct in
 25 understanding that the day after you learned of Clint

Page 87

1 Q. Did you ever call the St. Thomas pharmacy
 2 department to talk about whether it would be smart to
 3 purchase this particular preservative-free solution
 4 from NECC?

5 A. No.

6 Q. Did you ever ask the sales representative
 7 whether NECC carried any sort of liability insurance?

8 A. I did not.

9 Q. Did you ask the sales representative
 10 anything about whether NECC had the financial strength
 11 to stand behind its products?

12 A. No, but I don't ask any pharmaceutical that
 13 question.

14 Q. Did you investigate whether NECC had been
 15 sued before?

16 A. No.

17 Q. Did you do any Internet research about NECC
 18 specifically?

19 A. No.

20 Q. So you didn't Google NECC?

21 A. Not that I recall.

22 Q. Let me hand you a photograph that we're
 23 going to make Exhibit No. 34. And I'm going to
 24 represent to you, ma'am, this is a -- a photograph
 25 from Google Earth of the NECC facility at 701 Waverly

Page 86

1 Pharmaceuticals' price increase, you placed your first
 2 order with NECC?

3 A. I don't know for sure. I'd have to look at
 4 the dates. I'm not...

5 Q. But in any event, was it shortly after you
 6 learned of Clint Pharmaceuticals' price increase that
 7 you placed your first order with NECC?

8 A. It wasn't mainly on the price increase. It
 9 was they did not -- couldn't guarantee me the supply
 10 that I needed.

11 Q. The question was: Did you place your first
 12 order with NECC shortly after learning of Clint
 13 Pharmaceuticals' price increase?

14 A. Yes.

15 Q. And if Clint Pharmaceuticals had told you
 16 "We're going to increase our price by \$2.49 a vial,
 17 but we'll have enough for you, we'll meet your need,"
 18 what would you have done?

19 A. I don't know because that wasn't the --
 20 that wasn't the...

21 Q. All right. So we've talked about shortage,
 22 preservative-free, price. Any other factors that
 23 influenced the decision?

24 A. Nothing that's coming to mind at the
 25 moment.

Page 88

1 Street in Framingham, Massachusetts. It's dated
 2 June 18th of 2010. Have you ever seen any photograph
 3 like this before?

4 (Exhibit 34 was marked for
 5 identification.)

6 THE WITNESS: No.

7 Q. (By Mr. Nolan) So you see here how there
 8 appears to be a bunch of trash behind this facility?
 9 Do you see that?

10 A. Yes.

11 Q. Okay. So did you know when you decided to
 12 purchase these sterile solutions from New England
 13 Compounding Pharmacy that it actually shared a site
 14 with a garbage compacting operation?

15 A. No.

16 Q. You did not know that. And so I take it,
 17 then, that you never endeavored to get on Google Earth
 18 and check out this new vendor that you were switching
 19 to; is that correct?

20 A. That is correct. But neither do I go on
 21 and Google any other.

22 Q. Did NECC come recommended to you by anyone?

23 A. The freestanding ambulatory surgery center.

24 Q. Say that again.

25 A. FASCA.

Page 89

1 Q. FASCA. You're saying they recommended --
 2 who at FASCA recommended you go with NECC?
 3 A. They had them at their trade show.
 4 Q. Okay. So they were present at a trade
 5 show; correct?
 6 A. Correct.
 7 Q. And they were giving out brochures like
 8 some we've already exhibited here to your deposition;
 9 is that correct?
 10 A. That is correct.
 11 Q. And did you understand that those brochures
 12 were advertising, they were advertising their wares?
 13 A. They were providing me with the information
 14 of their wares, what they have available.
 15 Q. And did you understand that those brochures
 16 were advertisements?
 17 A. I don't know if I'd consider them, like, an
 18 advertisement, like -- I just considered them
 19 literature telling me about their products.
 20 Q. Did you understand they were advertising
 21 their wares by giving you these brochures at their
 22 trade shows?
 23 A. Yes. Everyone was advertising, I guess, in
 24 that sense, their wares.
 25 Q. And do you typically believe everything

Page 90

1 that is printed in an advertisement?
 2 A. It depends on the...
 3 Q. Depends on?
 4 A. The advertise -- whoever is providing me
 5 the information, where I'm...
 6 Q. And you did believe everything that was
 7 printed in NECC's brochures; is that correct?
 8 A. I -- correct. I had no reason to doubt it.
 9 Q. Did you -- did you review any medical
 10 literature regarding compounding pharmacies in general
 11 before making the decision to purchase from NECC?
 12 A. Not that I recall.
 13 Q. Did you ever contact the CDC, Centers for
 14 Disease Control and Prevention?
 15 A. Regarding?
 16 Q. Regarding compounding pharmacies.
 17 A. No.
 18 Q. And you're doing a very good job, but I
 19 neglected to mention during our break, I had one
 20 request by one of the defense lawyers at the end of
 21 the table to ask you to speak up a little bit more.
 22 So if you could do that, that would be appreciated.
 23 Let me hand you a document we will make
 24 Exhibit No. 35. And let me ask you if this appears to
 25 be a publication from the CDC entitled "Morbidity and

Page 91

1 Mortality Weekly Report"?
 2 (Exhibit 35 was marked for
 3 identification.)
 4 THE WITNESS: That is what it says.
 5 Q. (By Mr. Nolan) All right. Are you
 6 familiar with the Morbidity and Mortality Weekly
 7 Report as a registered nurse?
 8 A. I do not read this.
 9 Q. Do you know whether anyone at -- at St.
 10 Thomas Neurosurgical receives this report?
 11 A. Not that I'm aware. I don't know.
 12 Q. Okay. Do you know whether anyone at Howell
 13 Allen Clinic receives this report?
 14 A. I have no idea.
 15 Q. In any event, did you discover the
 16 existence of this report before you ordered from NECC?
 17 A. No, I did not.
 18 Q. Now, let's look at the first paragraph
 19 about halfway through, you see the sentence that says,
 20 "This report describes"? Do you see the sentence that
 21 starts that?
 22 A. Yes.
 23 Q. It says, "This report describes five cases
 24 of fungal infection associated with contaminated drugs
 25 prepared at a compounding pharmacy. Clinicians should

Page 92

1 consider the possibility of improperly compounded
 2 medications as a source of infection in patients after
 3 epidural or intraarticular injections."
 4 Did I read that correctly?
 5 A. Yes, you did.
 6 Q. Did you know about that phenomenon before
 7 you decided to purchase from NECC?
 8 A. No.
 9 Q. So once you learned about that
 10 phenomenon -- it was new information to you after the
 11 outbreak for you to hear that the CDC had been
 12 reporting on problems in compounding pharmacies for
 13 approximately -- or approximately ten years before you
 14 first ordered; is that true?
 15 A. True.
 16 Q. All right. Were you aware that before you
 17 made the decision to buy from NECC, the United States
 18 Congress had conducted hearings about risks associated
 19 with compounding pharmacies?
 20 A. No.
 21 Q. Before you decided to go with NECC, did you
 22 talk with anybody at CuraScript?
 23 A. No.
 24 Q. Any other suppliers other than Clint
 25 Pharmaceutical?

Page 93

1 A. Not that I'm aware. I don't remember.
 2 Q. Did you happen to see the educational
 3 videos that the FDA had posted on YouTube about the
 4 risks associated with compounded pharmacies before you
 5 made the decision to switch?
 6 A. No. I don't normally pull up YouTube.
 7 Q. Am I correct in understanding that the
 8 clinic's decision to buy from NECC was the first time
 9 that it ever ordered medications from a compounding
 10 pharmacy?
 11 A. That's not correct.
 12 Q. All right. What else had it previously
 13 ordered from a compounded pharmacy?
 14 A. We had ordered ethyl -- an injection for a
 15 celiac plexus block for patients.
 16 Q. An injection for a celiac plexus block?
 17 A. Uh-huh (affirmative).
 18 Q. All right. And who did you order that
 19 from?
 20 A. We've ordered from Health and Wellness
 21 Compounding in Nashville, also St. Thomas Plaza
 22 Pharmacy.
 23 Q. Okay. And when you ordered those, was an
 24 individual prescription used in order to acquire those
 25 medicines from the compounding pharmacy?

Page 94

1 A. I believe it was.
 2 Q. Okay. And when you began purchasing from
 3 NECC, did you understand that drugs from that
 4 compounding pharmacy should only be dispensed pursuant
 5 to an individual patient-specific prescription?
 6 A. No.
 7 Q. You didn't understand that?
 8 A. No.
 9 Q. You didn't understand that it should be
 10 dispensed pursuant to an individual patient-specific
 11 prescription, and the prescription is kind of a
 12 three-party thing. It's a relationship between a
 13 physician, patient and the pharmacy. You didn't
 14 understand that?
 15 A. If NECC had needed individual prescriptions
 16 or prescriptions for these, that was not discussed at
 17 the time.
 18 Q. All right. So --
 19 A. That I recall.
 20 Q. All right. So you didn't realize that an
 21 individual prescription was needed for NECC's products
 22 that you were purchasing from that pharmacy; is that
 23 true?
 24 A. Not at that time, did I did not.
 25 Q. All right. Let me ask you to refer back to

Page 95

1 Exhibit No. 31. Turn to the 10th page, if you would.
 2 Now, you see Paragraph G in this information from NECC
 3 that you received that reads as follows: "The product
 4 is dispensed by patient-specific prescription only.
 5 There must be a specific
 6 practitioner/patient/pharmacist relationship to
 7 dispense to an individual patient or facility."
 8 Did I read that correctly?
 9 A. Yes, you did.
 10 Q. All right. Did you even bother to read
 11 this stuff that NECC gave you before you decided to
 12 purchase from NECC?
 13 MR. GIDEON: Objection to the form.
 14 Q. (By Mr. Nolan) You can answer.
 15 A. Yes, I did.
 16 Q. All right. Did you read Paragraph G?
 17 A. I'm sure I did.
 18 Q. So would you agree that you either knew or
 19 should have known that the products that you were
 20 purchasing from NECC should be dispensed by
 21 patient-specific prescription only?
 22 A. If the rep told me -- did not -- we did not
 23 need this, I would not have -- if he didn't require
 24 it, then I did not have to supply it.
 25 Q. Okay. So you just -- you decided to

Page 96

1 disregard Paragraph G?
 2 A. No, I did not disregard it. He did not
 3 require me to do that for him.
 4 Q. And you weren't going to do anything that
 5 was not required of you by the sales rep; is that what
 6 your testimony is?
 7 A. If the sales rep and the company didn't ask
 8 it of me, then I did not.
 9 Q. After you made the switch to NECC, did your
 10 clinic continue using Depo-Medrol made by Pfizer?
 11 A. If there -- if we had any in the facility,
 12 we continued -- we used what we had.
 13 Q. Okay. And so did some of your doctors
 14 prefer using Depo-Medrol?
 15 A. None that expressed that to me.
 16 Q. Specifically did a doctor named Rachel Rome
 17 frequently inject Depo-Medrol rather than the material
 18 from NECC?
 19 A. She used whatever we had at the facility.
 20 Sometimes she would use the words "Depo-Medrol"
 21 instead of -- it was easier to type instead of
 22 methylprednisolone acetate.
 23 Q. So are you saying that there were times
 24 when records would be created by your facility
 25 reflecting that the patient received Depo-Medrol and

1 those records were not accurate, they, in fact, got
 2 preservative-free MPA made by NECC?
 3 MR. GIDEON: Objection to the form.
 4 Q. (By Mr. Nolan) Is that what you're
 5 suggesting?
 6 A. No.
 7 Q. All right. Well, what are you suggesting?
 8 A. I am telling you that sometimes the doctor
 9 will -- it's easier, like, on a lot of things to write
 10 the -- instead of writing the generic -- long generic
 11 name. They will just use the most common name that
 12 something is known by. If we didn't have Depo in
 13 there, she would still dictate it as a Depo -- as an
 14 interchange for methylprednisolone acetate.
 15 Q. Well, I guess my question is: Did -- did
 16 your clinic continue to have Depo-Medrol on hand while
 17 it was using the material from NECC?
 18 A. No. Like I said, if we had it in there, we
 19 used all that product but did not order more
 20 Depo-Medrol.
 21 Q. I understand that this MPA is part of a
 22 class of drugs known as corticosteroids; is that
 23 right?
 24 A. I think so.
 25 Q. And were there any FDA approved

1 corticosteroids that were preservative-free?
 2 A. Depo-Medrol was considered
 3 preservative-free.
 4 Q. But it had some alcohol in it; correct?
 5 A. It is labeled preservative-free.
 6 Q. All right. Well, let me hand you a
 7 document that we're going to make Exhibit No. 36. And
 8 I'm going to ask you -- and this is a -- what appears
 9 to be a Clint Pharmaceuticals brochure that begins at
 10 STOPNC_849.
 11 Am I right about how I characterized that
 12 document, it's a Clint Pharmaceuticals brochure?
 13 (Exhibit 36 was marked for
 14 identification.)
 15 THE WITNESS: Yes, it is.
 16 Q. (By Mr. Nolan) All right. And look
 17 on the -- let's see -- I think it's the third page of
 18 the document. You see -- you see the information
 19 about a drug known as dexamethasone?
 20 A. Yes.
 21 Q. All right. Is that also a corticosteroid?
 22 A. To my understanding, it is.
 23 Q. All right. Is that one that your clinic
 24 used?
 25 A. We used a dexamethasone. I don't remember

1 if it was from here.
 2 Q. All right. So how long has your clinic
 3 been using dexamethasone?
 4 A. That, I don't know.
 5 Q. Okay. Was it using dexamethasone when you
 6 started working there in 2009?
 7 A. I believe so.
 8 Q. Okay. And has it continued to use it since
 9 then?
 10 A. I think, yes.
 11 Q. Okay.
 12 A. I don't know who is using.
 13 Q. And so who -- does it use dexamethasone for
 14 epidural steroid injections?
 15 A. Some doctors, depending on the procedures,
 16 would prefer it.
 17 Q. Okay. Who prefers it?
 18 A. I believe Dr. Rome. I don't remember right
 19 offhand. I don't know who all used it.
 20 Q. All right. And you see where it says under
 21 dexamethasone, "The only FDA approved corticosteroid
 22 that is preservative-free and particulate-free"? You
 23 see that?
 24 A. Yes.
 25 Q. Were you aware of that characteristic of

1 dexamethasone?
 2 A. They all say preservative-free.
 3 Q. What about particulate-free?
 4 A. I -- that is --
 5 Q. What is your understanding about why some
 6 doctors who give shots at St. Thomas Neurosurgical
 7 prefer dexamethasone -- or dexamethasone I guess is
 8 the proper way to pronounce it?
 9 A. Some of that is just physician preference.
 10 Q. Okay. Did you ever do any price
 11 comparisons between MPA from NECC and dexamethasone?
 12 A. Comparing the two prices?
 13 Q. Correct.
 14 A. No, not that I recall.
 15 Q. What is your understanding of the
 16 difference between a compounding pharmacy and a
 17 pharmaceutical company such as Pfizer?
 18 A. Pfizer makes all kinds of medicine and the
 19 compounding is more specialized. It's not like they
 20 make thousands of medications such as Pfizer would do.
 21 Q. Do you understand that compounding
 22 pharmacies are not regulated by the FDA to the same
 23 degree as pharmaceutical companies such as Pfizer?
 24 MR. GIDEON: Objection to the form.
 25 THE WITNESS: No.

<p style="text-align: right;">Page 101</p> <p>1 Q. (By Mr. Nolan) You can answer. 2 A. No. 3 Q. What is your understanding of the 4 difference between how compounding pharmacies are 5 regulated and how pharmaceutical companies are 6 regulated? 7 A. During that time period, I did not know. 8 It did not -- is wasn't necessary for me to know all 9 of that. 10 Q. And tell me every reason why it was not 11 necessary. 12 A. I don't -- when I order any medication or 13 any medication that comes in there, I don't do an 14 extensive research on any of it. It's a drug that we 15 are using or -- or in need of. It's -- 16 Q. Okay. So during the four or five 17 conversations that you had with Dr. Culclasure, he 18 never pointed out to you, "Now, Debra, compounding 19 pharmacies are different than companies like Pfizer so 20 we need to be careful here"? He never said anything 21 to you along those lines; is that true? 22 A. Not that I recall. 23 Q. Okay. Tell me everything that you can 24 remember about those four or five conversations with 25 Dr. Culclasure.</p>	<p style="text-align: right;">Page 103</p> <p>1 amount of the price increase? 2 A. I know it went to over \$8 and he said it 3 would probably go up into the \$11 range per vial. 4 Q. Did he tell you that he wouldn't be able to 5 get you enough of it? 6 A. If I wanted to buy 2,000 vials at once. 7 Q. Okay. So he -- he, being the 8 representative from Clint Pharmaceuticals, told you 9 that if you want -- if you would buy 2,000 vials at a 10 time, he could meet your need; is that correct? 11 A. He thought he could. 12 Q. All right. And -- but that would be at an 13 increased price? 14 A. At a drastically increased price. 15 Q. Well, what does drastically mean? 16 A. I don't remember what all he had quoted me, 17 but it was supply and demand and if I would -- they 18 would supply it as long as I would buy large 19 quantities. 20 Q. All right. So to make sure I understand 21 your testimony, it was your information from Clint 22 Pharmaceuticals that they could meet your need, but -- 23 in terms of supply if you bought 2,000 vials at which 24 you've described as a drastically increased price; 25 true?</p>
<p style="text-align: right;">Page 102</p> <p>1 A. I remember that we discussed the shortage 2 that we were -- of the availability of the Depo-Medrol 3 and that I had spoken with NECC. I had met them at 4 the FASCA conference and had spoken with them on a 5 couple of occasions and this is what they had to offer 6 and can provide us with what we need. And he looked 7 at the literature and was comfortable with it and the 8 decision was made. 9 Q. Tell me everything that you recall 10 Dr. Culclasure saying during those four or five 11 conversations. 12 A. Basically what we talked about. He was 13 pleased that it was true preservative-free. 14 Q. Did you two discuss price? 15 A. I'm sure we did. 16 Q. Did you talk about how much you'd save a 17 month if you went with NECC? 18 A. I -- that doesn't -- I don't know. 19 Q. Did you think about that fact in your mind? 20 A. We wouldn't be -- we weren't paying any 21 cheaper than what we had been getting the -- from 22 Clint until they -- 23 Q. Increased their price? 24 A. -- increased their price drastically. 25 Q. All right. What is your memory of the</p>	<p style="text-align: right;">Page 104</p> <p>1 A. For the time being, he could meet my needs. 2 I don't know for how long because there was a 3 shortage. 4 Q. Did he give any sort of time parameters 5 when you talked to him? 6 A. I don't remember. 7 Q. And the fact that he indicated that you 8 could buy 2,000 vials of that stuff at one time, did 9 that not cause you to maybe ask questions about 10 whether the shortage was as real or critical as he was 11 representing? 12 A. I had to go by what he was telling me. We 13 order, it's back ordered, and then it's we can get it 14 and here's the crease -- increase. 15 Q. All right. Now, in terms of your purchases 16 from NECC, I'm going to hand you a group of documents 17 that we're going to make Exhibit No. 37, and -- 18 (Exhibit 37 was marked for 19 identification.) 20 MR. GIDEON: Give me the Bates number 21 down at the bottom. 22 MR. NOLAN: Bates number STOPNC_30. 23 Q. (By Mr. Nolan) -- and let me ask you if 24 this appears to be a group of four invoices from NECC 25 to your clinic during the months of June, July and</p>

1 August of 2012?
 2 MR. CLINE: What are the Bates
 3 numbers?
 4 THE WITNESS: That is correct.
 5 MR. NOLAN: STOPNC_30, 27, 25 and 20.
 6 Q. (By Mr. Nolan) Okay. And so these
 7 invoices reflect that your clinic purchased 500 vials
 8 of MPA from NECC during that three-month period; is
 9 that correct? Excuse me. I've misspoke.
 10 These invoices reflect that your clinic
 11 purchased 2,000 vials of MPA from NECC during that
 12 particular three-month period; is that true?
 13 A. That is true.
 14 Q. All right. Did you know that your clinic
 15 was NECC's largest customer for that particular
 16 product during that three-month period of time?
 17 A. No, I did not.
 18 Q. All right. Let's talk for a minute
 19 about -- a minute more about who you purchased from
 20 after the outbreak and after you discovered the
 21 problem with the NECC medications. And I'm going to
 22 hand you a document that we're going to make -- a
 23 group of documents that we're going to make
 24 Exhibit 38. And it's a group of invoices that include
 25 STOPNC_209 -- excuse me -- 208 through 211.

1 And are these invoices reflecting purchases
 2 of Depo-Medrol that your clinic made after the
 3 outbreak?
 4 (Exhibit 38 was marked for
 5 identification.)
 6 THE WITNESS: Yes.
 7 Q. (By Mr. Nolan) Okay. And it shows that in
 8 September -- on September 24th, which I guess was four
 9 days after your clinic learned of the outbreak --
 10 well, let me back up.
 11 Do you remember the date that your clinic
 12 learned about a problem surrounding its epidural
 13 steroid injections?
 14 A. Yes.
 15 Q. Okay. What was the date?
 16 A. I was notified on the 18th of an issue with
 17 a patient.
 18 Q. All right. Okay. Fair enough. And so
 19 this first invoice is, I guess, six days after you
 20 were notified that there was a problem?
 21 A. Four days after we decided to close the
 22 facility because we knew something was going on.
 23 Q. Okay. So -- so four days later, you
 24 order it looks like 200 vials of Depo-Medrol from that
 25 particular facility. Do you see that?

1 A. Yes.
 2 Q. And then if we look at the next invoice,
 3 November the 19th, it appears to me that you were
 4 ordering boxes of Depo-Medrol 80 milligrams that would
 5 contain 25 bottles per box. Do you see that?
 6 A. Yes.
 7 Q. So it looks like you ordered ten boxes. So
 8 you ordered another 250 vials on that particular day;
 9 is that correct?
 10 A. It would be 25 in a -- oh, I'm sorry. Yes.
 11 Q. Okay. And then on the next page, you
 12 ordered ten more 25 box vials of Depo-Medrol on
 13 November the 29th for a total of 250 more; is that
 14 correct?
 15 A. Correct.
 16 Q. All right. And then on the last invoice in
 17 this stack, December the 20th, you ordered 250 more
 18 vials of Depo-Medrol from the same company; is that
 19 correct?
 20 A. That is correct.
 21 Q. All right. And did the company deliver
 22 these vials of Depo-Medrol reflected in these invoices
 23 as requested?
 24 A. I would have to see the packing slip, but
 25 I'm assuming so.

1 Q. Okay. So you don't remember anything about
 2 PSS telling you, "Oh, I'm sorry, we can't send this
 3 stuff to you because there's a shortage"?

4 A. PSS was not a supplier of medication at the
 5 time we were ordering in 2011.

6 Q. All right. So the question is: You do not
 7 recall that PSS ever told you that they would be
 8 unable to meet the orders reflected in these invoices,
 9 Exhibit 38, because of a shortage, they never said
 10 that to you; is that true?

11 A. No, because the shortage was over, I'm
 12 assuming.

13 Q. Okay. All right.

14 MR. NOLAN: C.J., it's almost noon.
 15 How about a lunch break?

16 MR. GIDEON: Stop now, come back at
 17 five till 1:00. Good enough?

18 MR. NOLAN: Sounds good.

19 MR. GIDEON: Yes.

20 MR. NOLAN: Yes.

21 VIDEOGRAPHER: We're off the record.
 22 This is the end of Tape No. 2 and the time
 23 is 11:56 a.m.

24 (A lunch recess was taken at 11:56
 25 a.m. and the deposition reconvened at 1:02

<p style="text-align: center;">Page 109</p> <p>1 p.m.)</p> <p>2 VIDEOGRAPHER: Here begins Tape No. 3</p> <p>3 in the deposition of Debra Schamberg.</p> <p>4 We're back on the record and the time is</p> <p>5 11:02 p.m. -- I'm sorry -- 1:02 p.m.</p> <p>6 Q. (By Mr. Nolan) Ms. Schamberg, other than</p> <p>7 Howell Allen Clinic, who refers patients to St. Thomas</p> <p>8 Neurosurgical for epidural steroid injections?</p> <p>9 A. We have done probably less than five</p> <p>10 procedures on patients that were not Howell Allen.</p> <p>11 Q. Over what period of time?</p> <p>12 A. Since 2009. Since I have been there.</p> <p>13 Q. All right. So I take it, then, in almost</p> <p>14 100 percent of the patients that are seen at St.</p> <p>15 Thomas Neurosurgical are Howell Allen Clinic referrals</p> <p>16 except for the five that you've mentioned?</p> <p>17 A. True. Yes.</p> <p>18 Q. Okay. Now, you said that -- I thought I</p> <p>19 heard you say that NECC was endorsed by someone at</p> <p>20 some point in your deposition. Do you recall what I'm</p> <p>21 referring to?</p> <p>22 A. Yes. At the Freestanding Ambulatory</p> <p>23 Surgery Center conference.</p> <p>24 Q. How were they endorsed by that</p> <p>25 organization?</p>	<p style="text-align: center;">Page 111</p> <p>1 A. FASCA.</p> <p>2 Q. FASCA. Okay.</p> <p>3 You never relied on any sort of written</p> <p>4 endorsement from FASCA regarding NECC at the time you</p> <p>5 decided your clinic should purchase from NECC; is that</p> <p>6 true?</p> <p>7 A. That is true.</p> <p>8 Q. Okay. And for all you know, the reason</p> <p>9 that FASCA allowed NECC to appear at the trade show is</p> <p>10 because NECC was wanting to pay for a booth at the</p> <p>11 trade show?</p> <p>12 MR. GIDEON: Objection to the form.</p> <p>13 Q. (By Mr. Nolan) You can go ahead and</p> <p>14 answer.</p> <p>15 A. I do not know if they charge them or what</p> <p>16 they charge them.</p> <p>17 Q. But you didn't talk with anyone associated</p> <p>18 with FASCA about NECC; is that true?</p> <p>19 A. That is true.</p> <p>20 Q. Ms. Schamberg, I'm going to hand you a</p> <p>21 group of documents we're going to make a collective</p> <p>22 exhibit, which will be Exhibit No. 47, and it's a</p> <p>23 group of documents that have been produced in this</p> <p>24 litigation.</p> <p>25 COURT REPORTER: You skipped some</p>
<p style="text-align: center;">Page 110</p> <p>1 A. They're allowed to come and be at the</p> <p>2 vendor show.</p> <p>3 Q. Okay. So did they have to pay -- did NECC</p> <p>4 have to pay for a booth --</p> <p>5 A. That, I don't know.</p> <p>6 Q. -- at that vendor show?</p> <p>7 A. Huh-uh (negative).</p> <p>8 Q. Okay. But you never received any sort of</p> <p>9 literature or correspondence from that trade</p> <p>10 organization saying "We hereby endorse NECC as an</p> <p>11 approved compounding pharmacy"; is that true?</p> <p>12 A. I do not know if that was on the</p> <p>13 literature, the info they sent to me or not for these</p> <p>14 meetings.</p> <p>15 Q. Okay. You don't -- certainly don't recall</p> <p>16 anything like that, do you?</p> <p>17 A. Not right offhand.</p> <p>18 Q. And you never received any sort of written</p> <p>19 endorsements from that trade group that you relied on</p> <p>20 when you decided to purchase from NECC; is that true?</p> <p>21 A. If FASCA felt like that they weren't a</p> <p>22 reputable company, they would not have allowed them to</p> <p>23 be there.</p> <p>24 Q. Right. But what I'm saying is if -- is it</p> <p>25 FASFA?</p>	<p style="text-align: center;">Page 112</p> <p>1 numbers.</p> <p>2 MR. NOLAN: Oh, I did?</p> <p>3 COURT REPORTER: The last one was 38.</p> <p>4 MR. NOLAN: Let's try that again.</p> <p>5 COURT REPORTER: 39.</p> <p>6 MR. NOLAN: 39? Okay. We'll make</p> <p>7 that Exhibit No. 39.</p> <p>8 (Exhibit 39 was marked for</p> <p>9 identification.)</p> <p>10 Q. (By Mr. Nolan) Now, Exhibit 39, what I've</p> <p>11 endeavored to do is place a series of documents in</p> <p>12 chronological order that have been produced. We're</p> <p>13 going to go through, we're going to talk about them.</p> <p>14 We can also refer to the Bates number down at the</p> <p>15 bottom of the page so that folks can know what we're</p> <p>16 talking about.</p> <p>17 And the first page is an e-mail from you to</p> <p>18 Marlese Allen in June of 2009, and it's STOPNC Bates</p> <p>19 No. 2386. Do you see that?</p> <p>20 A. Yes, sir.</p> <p>21 Q. It says -- you're asking, "Do I have to use</p> <p>22 certain vendors for ordering, question mark. I would</p> <p>23 like to do some price comparison with other vendors</p> <p>24 other than Cardinal. I'm not pleased with our</p> <p>25 Cardinal rep and I know there are some hungry vendor s</p>

Page 113

1 that would love our business."

2 Have I read those sentences correctly?

3 A. Correct.

4 Q. Okay. And so I take it that this is you
5 trying to shop for the best price possible from
6 various vendors. Is that a fair way for me to
7 understand this e-mail?

8 A. I wasn't pleased with the Cardinal rep so I
9 was wanting to look at other vendors and see who could
10 meet our needs better.

11 Q. Okay. All right. And you mentioned price
12 there. Now, I take it when you were thinking about
13 switching from Cardinal, that didn't have anything to
14 do with the shortage, did it?

15 A. No.

16 Q. Okay. And didn't have anything to do with
17 the desire to procure a truly preservative-free MPA,
18 did it?

19 A. Cardinal did not supply us with MPA.

20 Q. Okay. All right. What did you buy from
21 Cardinal?

22 A. All of our -- I think all of our -- most of
23 our supplies came from them. They were our vendor for
24 medical supplies.

25 Q. Did you buy any medicines from Cardinal?

Page 114

1 A. I don't remember.

2 Q. Okay. So you may have or you may not have,
3 you just have no recollection?

4 A. I don't -- I don't have a recollection on
5 that, sir.

6 Q. All right. Would you characterize NECC as
7 a hungry vendor?

8 A. I think any vendor is a hungry vendor.

9 Q. All right. If we go to the next page,
10 STOPNC_224, it's a page of handwritten notes. You see
11 that?

12 A. Yes, I do.

13 Q. Whose handwriting is that?

14 A. That is my handwriting.

15 Q. All right. And are those notes made during
16 the year 2010?

17 A. It appears that way.

18 Q. Okay. So it looks like the first note --
19 does it appear to be dated March 10th of that year?

20 A. Yes.

21 Q. Okay. And so tell us what that note means.

22 A. Methylprednisolone, \$6.66 for an 80
23 milligram bottle.

24 Q. Okay. Do you know who you were procuring
25 that material from at that time?

Page 115

1 A. Not by looking at this, I do not.

2 Q. Could you find in front of you the
3 spreadsheet that your clinic produced to us that would
4 include that time frame. It should be one of the
5 exhibits there in front of you. Exhibit 29. Does
6 that price appear to correspond with Exhibit 29?

7 A. Yes.

8 Q. Okay. So is this note apparently a note
9 that you made in reference to some information that
10 you gathered from CuraScript?

11 A. I don't know if I took it from the invoice
12 or if I called them. I don't know.

13 Q. Okay. Fair enough. And why did you find
14 it necessary to make a note about that -- about the
15 price of MPA at that time?

16 A. I try to keep notes on various things so
17 that I could remember.

18 Q. Okay. All right. Was it common for to you
19 make written notes about price?

20 A. Yes.

21 Q. The next note is April 13th, 2010. Could
22 you read us that note.

23 A. "Changed account name for pain
24 management" -- PM is for pain management -- "to JWC
25 from GBL."

Page 116

1 Q. And what's GBL mean?

2 A. That's Dr. Lambert's.

3 Q. I see. When it says changed account name,
4 what does that mean?

5 A. The name I believe was under -- was listing
6 Dr. Lanford as the -- as the person using the
7 medication, ordering the medication or may have been
8 even his DEA. I don't know. I don't remember.

9 Q. Okay. All right. And then what's the next
10 sentence say?

11 A. "Will give us MedAssets pricing."

12 Q. What does that mean?

13 A. MedAssets was the buying group that we were
14 using.

15 Q. Okay. And what price were you getting from
16 MedAssets?

17 A. MedAssets is the -- is a group that you
18 belong to or a buying group. It's not a company per
19 se.

20 Q. Okay. So am I correct if we look at our
21 spreadsheet that you were procuring either Depo-Medrol
22 or generic MPA from CuraScript in April of 2010?

23 A. Correct.

24 Q. Okay. Do you know specifically which it
25 was? Was it Depo-Medrol or was it generic MPA?

Page 117

1 A. I don't -- I don't remember.
 2 Q. All right. But is the price reflected on
 3 your clinic's spreadsheet the MedAssets price?
 4 A. I'm assuming so.
 5 Q. Okay. No reason to think otherwise;
 6 correct?
 7 A. Correct.
 8 Q. All right. The next note, May 25th of
 9 2010. What does that mean?
 10 A. It's for a minimum order fee.
 11 Q. What is that?
 12 A. If you did not order a certain amount, you
 13 would be charged a minimum order fee.
 14 Q. I see. Were you getting charged a minimum
 15 order fee at that time?
 16 A. I don't know for sure. The person ordering
 17 sometimes would not order but a small quantity instead
 18 of a...
 19 Q. Okay. So the next note is dated June
 20 the 10th. Is that June the 10th of 2010?
 21 A. I'm assuming.
 22 Q. Okay.
 23 A. And it may have been just June of '10.
 24 Q. June of '10. Okay. Fair enough. And read
 25 us what that says.

Page 118

1 A. "Methylprednisolone acetate backorder.
 2 Using Depo-Medrol. \$7.02. Question about when we'll
 3 be off backorder."
 4 Q. So I take it from that note that the
 5 generic MPA was on backorder; is that correct?
 6 A. From this note, it appears that.
 7 Q. And it -- for that reason, you were using
 8 the brand name Depo-Medrol at a price of \$7.02 a vial;
 9 is that true?
 10 A. That's true.
 11 Q. So you were able to get Depo-Medrol even
 12 though the generic MPA was on backorder; correct?
 13 A. It appears so.
 14 Q. All right. Was there ever a period of time
 15 where you were not able to procure the brand name
 16 Depo-Medrol?
 17 A. Not that I recall, but I don't remember.
 18 Q. Fair enough. Who would know? Is there
 19 anybody who would have more information about that
 20 than you?
 21 A. Not necessarily, no. Probably not.
 22 Q. All right. The next note, what's the date
 23 of the next note?
 24 A. I believe it's 10/26/10. The -- the month
 25 is kind of --

Page 119

1 Q. It's difficult to read?
 2 A. -- difficult on that.
 3 Q. And I'll say you have nice handwriting so
 4 that's a good thing. Tell us what that note says.
 5 A. "Spoke with Sandra several times for
 6 pricing for pain management. Account is under
 7 MedAssets. Correct price for Depo-Medrol 80
 8 milligrams five mL is 30 point -- \$30.66. Will send
 9 credit for 7/21 order and 9/18 order."
 10 Q. So when it says "Depo-Medrol 80 milligrams
 11 five milliliters," what does that mean?
 12 A. This was for pain management. This was not
 13 for STOPNC.
 14 Q. Okay. So this was for a different Howell
 15 Allen facility; is that correct? Is that what you're
 16 telling us?
 17 A. It's a different -- it's not part of the
 18 neurosurgical center. It was the pain management
 19 center that's not part of STOPNC.
 20 Q. Well, what is the pain management center?
 21 A. That would be where we -- pain management
 22 center covered the chronic pain patients that had
 23 pumps, pain pumps in, and they took care of taking --
 24 managing the pain pumps and they would do trigger
 25 point injections and various injections.

Page 120

1 Q. So was that a separate clinic from St.
 2 Thomas Neurosurgical?
 3 A. Yes.
 4 Q. And where is it located?
 5 A. It was on the 8th floor. We're on the 9th
 6 floor. It's on the 8th floor.
 7 Q. On the 8th floor of the St. Thomas Hospital
 8 campus?
 9 A. Of the medical building.
 10 Q. All right. Fair enough. And what is the
 11 name of that clinic -- pain management clinic?
 12 A. It was part of the Howell Allen.
 13 Q. So what is the full name of that -- of that
 14 particular facility, the place on the 8th floor? If
 15 someone walked up to that place, what sign would they
 16 see on the door?
 17 A. Howell Allen Clinic.
 18 Q. Okay. All right. Read us the note dated
 19 12/1 of '10.
 20 A. "Spoke with Sandra. She is checking with
 21 the account department. Has to get back with me. Not
 22 sure of delay in processing. Return call. Contract
 23 department needs vendor approval. Sandra feels we
 24 will get contracting price on this, but they must have
 25 vendor approval. Will get back to me tomorrow or next

Page 121

1 day."

2 Q. Who is Sandra?

3 A. I believe she's with CuraScript.

4 Q. All right. And what contract department is

5 she referring to?

6 A. I don't know.

7 Q. Okay. Was that a contract department

8 associated with St. Thomas Hospital?

9 A. No. I --

10 Q. What vendor was she referring to?

11 A. I don't remember.

12 Q. All right. Let's go to the next page,

13 which is STOPNC_222. This looks like a Clint

14 Pharmaceuticals invoice dated June the 22nd, 2010 and

15 it has some handwritten notes on it; is that correct

16 that?

17 A. That is correct.

18 Q. Are those your written notes?

19 A. Yes.

20 Q. Okay. It looks like you're doing some more

21 price comparison; is that true?

22 A. Yes.

23 Q. That was a fairly common part of your job,

24 wasn't it?

25 A. Price comparing is always important on

Page 123

1 have put a note.

2 Q. Now, you mentioned earlier that you were

3 pricing medicines for the Howell Allen pain management

4 clinic. Why were you doing that?

5 A. I submitted the invoices for the pain

6 management clinic for -- to accounts payable.

7 Q. Okay. So did you hold any positions with

8 the Howell Allen pain management clinic?

9 A. I was, in essence, the manager over that

10 also.

11 Q. So were you considered the facilities

12 director of that pain management clinic?

13 A. Yes.

14 Q. Okay. And how many folks worked in that

15 pain management clinic on the 8th floor of that

16 particular building in the St. Thomas Hospital campus?

17 A. Two.

18 Q. Who were they?

19 A. It was -- it was Anna Marie Anderson was

20 the nurse practitioner. When she left, Michelle Doud

21 took the spot, and then Bobbi Doty was -- helped

22 the -- did secretarial work and scheduling for that as

23 well as at STOPNC.

24 Q. And could you explain why that particular

25 clinic was organized separately from St. Thomas

Page 122

1 everything we do.

2 Q. Yeah. And so we see here that there's a

3 price for Depo-Medrol of \$11.95 a vial for a 25 box

4 shipment. Do you see that?

5 A. Yes.

6 Q. And is that an 80 milligram vial, one

7 milliliter?

8 A. 80 milligrams per one CC.

9 Q. Okay. And then the generic price that's

10 listed there is \$6.49. Is that the way I should

11 interpret that?

12 A. I'm trying to figure out the difference in

13 that and the -- but I do see the 6.49.

14 Q. Do you know when you made this note?

15 A. No.

16 Q. So whenever you made this note, am I

17 correct in thinking that you could buy the generic for

18 6.49 a vial presumably from Clint Pharmaceuticals, or

19 you could buy Depo-Medrol, the brand name for 11.95 a

20 vial? Is that the way you interpret your note?

21 A. Yes, it is.

22 Q. Okay. Do you think this reflects

23 information you gathered from Clint Pharmaceuticals?

24 A. I feel like it is. If it was stuck on a

25 Clint thing that would have been where I put -- would

Page 124

1 Neurosurgical.

2 A. Because they were not part of an ambulatory

3 surgery center.

4 Q. Okay. All right. Let's go to the next

5 page, the fourth page, which is STOPNC_5409. And is

6 this an e-mail from you to Bobbi Doty that occurred in

7 December of 2010?

8 A. Yes, it is.

9 Q. All right. And remind me what Ms. Doty's

10 job was.

11 A. She helped in the pain management with the

12 pain management and she was also the scheduling for

13 the surgery center.

14 Q. All right. So she worked both in the pain

15 management clinic and also in St. Thomas

16 Neurosurgical?

17 A. That's correct.

18 Q. Did St. Thomas Neurosurgical do pain

19 management in the form of epidural steroid injections?

20 A. The outpatient neurosurgery center?

21 Q. Yes.

22 A. Yes.

23 Q. Okay. So would it be fair for me to refer

24 to St. Thomas Neurosurgical as a pain management

25 clinic?

Page 125

1 A. We're an ambulatory surgery center.
 2 Q. All right.
 3 A. The pain management portion did not do
 4 epidural steroid injections.
 5 Q. Okay. All right. Well, in any event, on
 6 December the 9th of 2010, you say to Ms. Doty, "We may
 7 start ordering from Clint Pharma. They are local and
 8 I think they will give us better" -- money. I assume
 9 you mean price there; correct?
 10 A. Correct.
 11 Q. And so did you then switch from CuraScript
 12 to Clint Pharmaceuticals because Clint would give you
 13 a better price?
 14 A. I don't know the reason at the moment why
 15 we switched. It may have been.
 16 Q. All right. Well, did you --
 17 A. I don't know.
 18 Q. Your e-mail to Ms. Noty -- Doty refresh
 19 your memory? It says, "We may start ordering from
 20 Clint Pharma. They are local and I think they will
 21 give us better" -- price.
 22 Does that refresh your memory about why you
 23 changed from CuraScript to Clint Pharmaceuticals?
 24 A. No, because I don't know if we were having
 25 any problems at that time with CuraScript.

Page 126

1 Q. Well, if we look at our spreadsheet, it
 2 shows that lo and behold on December the 9th, you did
 3 make the switch and you did get a better price. Do
 4 you see that?
 5 A. Yes.
 6 Q. So it appears that at that point, you
 7 started buying MPA for \$6.49 for a one milliliter
 8 vial; is that correct?
 9 A. Correct.
 10 Q. Was that generic MPA?
 11 A. I do not know.
 12 Q. Did you ever buy brand named Depo-Medrol
 13 from Clint Pharmaceuticals?
 14 A. I don't remember.
 15 Q. Okay. Let's go to the next page, which is
 16 a page of notes. It's STOPNC document 223. Are these
 17 your notes?
 18 A. Yes.
 19 Q. Read us the first one dated 12/9 of '10.
 20 A. "Not getting MedAssets" -- pricing. That's
 21 the dollar sign -- "on pain management account because
 22 address or suite number is different. We changed
 23 their pain management suite number to 9 -- changed
 24 pain management suite number to 901. Sandra will
 25 process request and send us credit on invoices that

Page 127

1 overcharged. To get MedAssets pricing on suite 10,
 2 have to submit request to MedAssets for approval.
 3 Sandra to give us credit once paperwork completed."
 4 Q. All right. So I take it, then, that Sandra
 5 with CuraScript was indicating that you could not get
 6 your special MedAssets price, the price that you were
 7 entitled to receive because you were part of this
 8 MedAssets purchasing group for the pain management
 9 clinic because it had a different suite address than
 10 St. Thomas Neurosurgical; is that correct?
 11 A. At one time the pain management was in
 12 suite 901 and I do not remember when I moved it to the
 13 8th floor.
 14 Q. Okay.
 15 A. So -- but to -- I had to have that suite
 16 number to get the pricing.
 17 Q. All right. So did you then change the
 18 suite number from the 8th floor to the 9th floor so
 19 you could get the MedAssets pricing?
 20 A. That's what it says I did.
 21 Q. Okay. And so -- but -- but -- but in
 22 truth, the pain management clinic was on the 8th
 23 floor, not on the 9th floor; right?
 24 A. At one time it was on the eighth -- on the
 25 9th floor.

Page 128

1 Q. All right. Where is it now?
 2 A. It's now on the 8th floor.
 3 Q. All right. What's your best estimate of
 4 when it moved down to the 8th floor?
 5 A. It was during -- it was probably in 2010 or
 6 2011. I don't know the exact date.
 7 Q. Does it appear to you from this note that
 8 by December of 2010 it had already moved down to the
 9 8th floor?
 10 A. I don't remember.
 11 Q. Okay. Do you currently buy medicine for
 12 the pain clinic on the 8th floor?
 13 A. We no longer have a pain clinic.
 14 Q. Was there a period of time when you bought
 15 medicine for the pain clinic on the 8th floor, but you
 16 used the 9th floor suite address so you could get a
 17 better price?
 18 A. No. No.
 19 Q. That never happened?
 20 A. This is -- no.
 21 Q. Okay. All right. What's the next note,
 22 February 14th of '11?
 23 A. "Depo-Medrol 80 milligrams per mL 25
 24 Box 6.88 a vial. 172.92 for 25 box. Spoke with" --
 25 I'm not sure if that's -- I think that's Ruth. I

Page 129

1 think that's my writing.

2 Q. Okay.

3 A. "New rep. Phone, 888-875-8062. She's in
4 central Florida. Check on past order for PM" -- pain
5 management -- "July for a refund. Not sure when
6 contract began." A star beside "Celestone on
7 long-term backorder. Pentothal," star with that --
8 Pentothal no longer available in the U.S."

9 And I have PM circled and a star.

10 "Bupivacaine always order in box of 25. Not
11 individual." Because it's cheaper. Again, PM, star,
12 "Depo-Medrol order individual. Cheaper. Five mL per
13 80 -- 80 milligrams, \$30.02."

14 Q. Okay.

15 A. "\$30.50 if out -- if out box -- if" -- I
16 believe that probably says "if order box."

17 Q. Okay. So this note does include pricing
18 information about Depo-Medrol; correct?

19 A. Correct, for pain management.

20 Q. All right. So you not only would try to
21 get the best price for St. Thomas Neurosurgical
22 whenever you were ordering for that entity, but you
23 would also try to get the best price when you would
24 order for Howell Allen's pain management clinic ; is
25 that true?

Page 130

1 A. Correct.

2 Q. All right. The next series of notes I see
3 references to Depo-Medrol. Are those in reference to
4 St. Thomas Neurosurgical or to the pain management
5 clinic?

6 A. If it has a "PM" in front of it, it would
7 be pain management.

8 Q. All right. Read the one dated 9/27.

9 A. "Per CuraScript, Mary" -- I can't pronounce
10 the last name -- I don't know the -- I can't read my
11 writing on that. "877-703-8266 outstanding balance of
12 \$118.20. Paid on 7/20. Cleared bank on 7/25.
13 CuraScript has no record of payment being received.
14 Marlese says address correct. They check -- correct.
15 Check probably went to incorrect lockbox at their
16 facility. CuraScript saying our responsibility to
17 find out where it went. Marlese says no."

18 Q. Okay. Fair enough. Thank you. Let's turn
19 to the next page, if we could. This is STOPNC_147.
20 It appears to be an e-mail from John Nor -- I can't
21 say it any better than you can. Notarianni?

22 A. I believe that's correct.

23 Q. The subject of which is NECC pricing,
24 question mark. Do you see that?

25 A. Yes.

Page 131

1 Q. All right. And he says, "Debra, after our
2 conversation, I went back to my manager and he said he
3 really would like to offer you better to earn your
4 business. What price would we need to give you to
5 gain your business on methylprednisolone 80 milligrams
6 one milliliter and two milliliter vials? Can you
7 please let me know what price would allow us to work
8 together. Thank you for your patience."

9 Have I read that correctly?

10 A. You're asking --

11 Q. Have I read that correctly?

12 A. Yes, you have.

13 Q. And so is -- is -- let's call him John. Is
14 John the person that you saw at the trade show that
15 you mentioned?

16 A. I did meet him at the trade show.

17 Q. Did you meet anybody else from NECC at the
18 trade show?

19 A. I did from the past e-mails you showed me
20 that Josh or Jay, whomever -- I don't remember him.

21 Q. You don't remember Mr. Salvucci?

22 A. No, I do not.

23 Q. Okay. Do you remember having any
24 conversations with anyone associated with NECC other
25 than John?

Page 132

1 A. I have spoken with Mario Giovanni, and I
2 knew I had spoken with someone at the trade show, but
3 I did not know -- could not remember the name.

4 Q. Okay. All right. So tell us everything
5 you remember talking about with the NECC
6 representatives at the trade show.

7 A. First time I spoke with them, I was
8 inquiring about Omnipaque. You can only buy Omnipaque
9 in large quantities and we didn't need large
10 quantities. I was trying to see if they sold the --
11 that product in a five, ten or -- cc vial versus the
12 30 and 50 that I was purchasing.

13 Q. All right. Do you remember discussing
14 anything else in particular other than your desire to
15 procure that medicine?

16 A. Not -- not at the moment, no. That was in
17 2010, the first time I met them.

18 Q. Okay. And why did you go to that trade
19 show?

20 A. It's an ambulatory surgery -- I go to
21 the -- they have various seminars that -- educational
22 seminars.

23 Q. Where was it?

24 A. In 2010 , it was in Franklin.

25 Q. So before you actually ordered from NECC,

Page 133

1 how many conversations either by telephone or in
 2 person did you have with a representative of NECC?
 3 A. I do not know.
 4 Q. What would be your best estimate?
 5 A. I have -- they would call me periodically.
 6 Q. Okay.
 7 A. Not daily, not weekly. Just -- I can't
 8 give you a -- but he would call, see how we were
 9 doing, if we were interested, having any issues,
 10 delivery issues.
 11 Q. All right. And tell me everything that you
 12 can remember an NECC person telling you before you
 13 decided to select them as a vendor.
 14 A. They assured me they could meet our needs.
 15 Q. All right. Any other information that they
 16 provided you orally about NECC?
 17 A. I reviewed some of the literature that they
 18 had, going over the -- that Massachusetts Board of
 19 Pharmacy was -- oversaw them, they were licensed in
 20 all 50 states and that various people were using their
 21 product. I don't remember exact conversations, but
 22 that was in some of the conversations we had.
 23 Q. But you don't remember any other specifics
 24 other than what you've already told us?
 25 A. I -- I'm sure we talked about price and

Page 135

1 A. That is correct.
 2 Q. And then --
 3 A. I take that back. I don't know what we
 4 were paying in May. Your spreadsheet ends on 12/10 --
 5 12 of '10. So I --
 6 Q. I see.
 7 A. Pricing may have been different at that
 8 time. I'm not sure.
 9 Q. Okay. That's fair enough. All right.
 10 What's the next page?
 11 MR. REHNQUIST: What's the Bates
 12 number, George?
 13 MR. NOLAN: It's Bates number
 14 STOPNC_97.
 15 MR. REHNQUIST: Thanks.
 16 Q. (By Mr. Nolan) This looks like an NECC
 17 price list. Is that what this is?
 18 A. That's what it appears to be.
 19 Q. Is this your handwriting there?
 20 A. I'm not sure.
 21 Q. Okay. Fair enough. All right. Let's look
 22 at Page No. 9, which is STOPNC_0164. This is an
 23 invoice for Clint Pharmaceuticals dated June 9th of
 24 2011; is that correct?
 25 A. That is correct.

Page 134

1 they would get pricing to me, but not at this moment,
 2 I -- I'm not recalling anything else.
 3 Q. All right. So do you recall any other
 4 specifics that you've not already shared with us?
 5 A. Not at this time.
 6 Q. All right. Do you -- can you tell us any
 7 questions that you asked of NECC?
 8 A. Generalized questions, but a specific
 9 question, no. Not at this time.
 10 Q. All right. All right. Returning back to
 11 our e-mails here, after Mr. -- after John, we'll call
 12 him, asks you about price, what price do you need to
 13 meet, this is on May the 17th, you respond the same
 14 day, if we look on the next page, and you say, "John,
 15 if you can get your price under \$6.50 for one
 16 milligram vial, then we can talk."
 17 Do you see that?
 18 A. Yes.
 19 Q. All right. Why did you pick that number?
 20 A. That was in a range for what we had been
 21 paying.
 22 Q. All right. You were paying at that point
 23 in time \$6.49 a vial when you got the MPA or
 24 Depo-Medrol from Clint Pharmaceuticals; is that
 25 correct?

Page 136

1 Q. All right. And this is the invoice that
 2 reflects a price increase by Clint Pharmaceuticals; is
 3 that correct?
 4 A. That is correct.
 5 Q. And they increased their price to \$8.95 for
 6 a vial of MPA, one milliliter, 80 milligrams; correct?
 7 A. Correct.
 8 Q. All right. You didn't expect that price
 9 increase, did you?
 10 A. No, I did not.
 11 Q. All right. You had become accustomed to
 12 paying \$6.49 a vial; correct?
 13 A. That is correct.
 14 Q. All right. And it -- and it says -- it
 15 seems to indicate at the top that this invoice was
 16 faxed to you-all on the date of the invoice, June
 17 the 9th, 2011. Do you see that?
 18 A. Yes, I do.
 19 Q. And then if we look two more pages over,
 20 STOPNC_511, there's an e-mail from you the following
 21 day on June the 10th to our friend John at NECC, and
 22 you say, "John, happy Friday, John. If pricing is
 23 still 6.50 for one milliliter and 12 for two
 24 milliliters for methylprednisolone 80 milligrams one
 25 milliliter, I'm willing to do business with you. Let

1 me know what is needed."

2 Did I read that paragraph correctly?

3 A. Yes, you did.

4 Q. All right. So does it appear to you that
5 the day after you became aware of Clint
6 Pharmaceuticals' increasing its price from \$6.49 a
7 vial to \$8.95 a vial, you told NECC that you would be
8 willing to do business with them if they could give it
9 to you for \$6.50 a vial?

10 A. Yes.

11 Q. Okay. Now, that is not what we would call
12 a coincidence. You would agree that price was a
13 primary factor in your decision to place your first
14 order with NECC the very day that follows Clint
15 Pharmaceuticals raising its price from 6.45 -- \$6.49
16 to \$8.95?

17 A. No. Demand, supply and demand. They had
18 backordered some. Clint Pharmaceuticals had -- there
19 was a backorder, and NECC had told me that they could
20 keep us in supply. That was the main reason.

21 Q. Price was not the main reason?

22 A. It was not the main reason.

23 Q. Okay. Was it -- and was it any reason?

24 A. Sure.

25 Q. All right. Now, if we look at this invoice

1 a -- there is a shortage. Therefore, it's kind of
2 like supply and demand. If somebody needs it, we're
3 just going to go up on our price. I didn't appreciate
4 that type of business.

5 Q. Why didn't you appreciate it?

6 A. It's kind of like gouging your loyal
7 customers.

8 Q. Okay. Well, I guess the question is: Was
9 it your understanding that Clint Pharmaceuticals was
10 willing to sell and promptly deliver 400 vials of that
11 particular medicine at a price of \$8.95 a vial?

12 A. They did deliver that to us.

13 Q. Okay. And they -- all right. That's fine.

14 And so read your note to us, your
15 handwritten note.

16 A. "E-mail Clint Ebel about the \$2.49 increase
17 per vial." And then on 6/21, "Spoke with Clint Ebel.
18 Will give us \$6.29 pricing on this invoice. Future
19 invoices will be \$8.95."

20 Q. Okay. Now, those two particular notes, I
21 don't see anything about a shortage reflected in those
22 notes.

23 A. These are just my little handwritten notes
24 so I can remember.

25 Q. All right. The first note is dated 6/15

1 on the ninth page, STOPNC_164, what does it say about
2 back orders for MPA? There's a column for backorder;
3 right?

4 A. Oh, correct.

5 Q. Zero backorder?

6 A. Zero.

7 Q. So at the time they increased their price,
8 their invoice reflected zero backorder?

9 MR. GIDEON: Objection to the form.

10 Q. (By Mr. Nolan) Is that correct?

11 A. It does say that.

12 Q. All right. Do you know why it says that?

13 A. Because they sent us 400 vials.

14 Q. Okay. So they were willing to sell you 400
15 vials at \$8.95 a vial without a backorder? Is that
16 the way that invoice was interpreted by you?

17 A. When I talked to them about the \$8.95
18 increase, I was told -- and it may not reflect it, but
19 I was told the reason for the increase was due to the
20 backorder and that the price would continue to rise.

21 Q. But they didn't tell you that you couldn't
22 get it from them, they just told you that you would
23 pay a higher price?

24 A. No, they did not -- at first they did not
25 know if they could even supply it. They said it's

1 and the next is dated 6/21; is that right?

2 A. Yes.

3 Q. Okay. And then if we turn to the next
4 page, it's a copy of the same invoice but there are
5 different notes on it. Do you see that?

6 A. Yes.

7 Q. How did that happen?

8 A. It -- I don't know who faxed this copy to
9 me. I don't know if after our conversation or what if
10 they faxed to me. But the increase -- it says price
11 increase was due to the shortage.

12 Q. Okay. Whose handwriting is that?

13 A. That is mine.

14 Q. All right. Is your note about the price
15 increase due to the shortage dated --

16 A. 6/21/11 is the date that it's written on
17 this.

18 Q. All right. But you --

19 A. The date -- the 6/21/11 is the date I would
20 have submitted this to -- with my initials under it,
21 the date I submitted this for payment to accounts
22 payable.

23 Q. Do you have any note or e-mail dated before
24 June the 10th when you first decided to do business
25 with NECC when you sent that e-mail to John that says

Page 141

1 anything about a shortage?

2 A. I -- I don't know.

3 Q. Okay. All right. And the next page is the
4 page we've already referenced. That's -- that's when
5 you first told John that you were willing to do
6 business with NECC; is that correct?

7 A. That is correct.

8 Q. All right. And then if we go two more
9 pages, it looks like John responded at some point.
10 Oh, yeah. If we go two more pages, STOPNC_95, do you
11 see the note, the handwritten note at the top of that
12 e-mail?

13 A. Yes.

14 Q. "Call on Monday, order"?

15 A. Yes.

16 Q. Okay. So your note -- your e-mail to John,
17 the happy Friday e-mail was sent on the Friday, and
18 then what is this note, call on Monday, order, what
19 does that mean?

20 A. I -- I do not know.

21 Q. Can we look back at Page -- the tenth page,
22 STOPNC_165. You see how we see Tennessee sales at the
23 bottom, bottom right-hand corner, Tennessee sales, and
24 then part of the X in tax appears to be missing. Do
25 you see that?

Page 142

1 A. Yes.

2 Q. Was anything redacted from this invoice?

3 A. I have no way of knowing.

4 Q. And are the originals of these documents
5 still available --

6 A. Yes.

7 Q. -- somewhere?

8 And where are those?

9 A. I believe they're -- I have them in my
10 office, I believe.

11 Q. Okay. And you'll agree to hang on to them
12 and not let anything happen to them. Fair enough?

13 A. Yes.

14 Q. All right. And then let's go to the
15 next -- the 14th page, which is STOPNC_95. This looks
16 like more notes that you made on an e-mail string. Do
17 you see that?

18 A. 95 or 94 you're talking about?

19 Q. 094. That's what I mean to say.

20 A. There -- yes, those are my notes.

21 Q. Okay. Tell us what these notes mean.

22 A. CuraScript, \$6.66. Clint, \$6.49. And I
23 can't read what is written after that. First order 48
24 to 72 hours. 500 - 1 mL, 6.50. 200 - 2 mLs at 12.

25 Then I have John Notarianni's name plus shipping, 24

Page 143

1 to 48 hours. 500 - 1 mLs. 200 - 2 mLs. Order at one
2 time. I don't know if all those are the same note or
3 different Post-it notes on there.

4 Q. Okay. So they could have been -- could be
5 different Post-it notes made on different days;
6 correct?

7 A. Yes. Yes.

8 Q. So just because they're attached to an
9 e-mail string dated May 20th doesn't mean that's when
10 the notes were written; is that true?

11 A. That would be correct.

12 Q. And so read us the bottom Post-it note, if
13 you would.

14 A. "Need 140 names from roster. Pharmacy
15 requires state of Massachusetts can submit last name,
16 initial."

17 Q. Okay. What's that about?

18 A. Mario -- well, I don't know. I was told we
19 needed 140 names from the roster because of the board
20 of -- Massachusetts Board of Pharmacy.

21 Q. Who told you that?

22 A. I'm thinking Mario.

23 Q. Okay.

24 A. I do remember talking to Mario about that.

25 Q. All right. Is that your handwriting on

Page 144

1 that Post-it note?

2 A. Yes, it is.

3 Q. And so approximately when did Mario tell
4 you that?

5 A. When we started sending the patient list
6 with the order.

7 Q. All right. And specifically, what did
8 Mario say?

9 A. He -- not to quote. I don't know the exact
10 words, but he told me that -- basically what this is.
11 The Massachusetts Board of Pharmacy required names
12 for -- required names for the MPA to be sent to us.

13 Q. Did he explain why?

14 A. He just said it was their rules of the
15 Massachusetts Board of Pharmacy.

16 Q. Did you ask him what rules?

17 A. I -- no.

18 Q. Did you ask him to --

19 A. I don't --

20 Q. -- explain where you could get a copy of
21 those rules?

22 A. I did not ask.

23 Q. Okay. Did it sound strange to you that he
24 was asking you to send names from your patient roster
25 to NECC?

Page 145

1 A. I did question him on that.
 2 Q. All right. And what questions did you ask?
 3 A. I asked him why now were we having to do
 4 this.
 5 Q. What do you mean why now?
 6 A. We had been ordering for quite a while for
 7 almost a year before that was required.
 8 Q. I thought you -- and maybe I misheard you.
 9 I thought you said that Mario told you this when you
 10 first started ordering from NECC?
 11 A. No.
 12 Q. I see. When -- approximately when did
 13 Mario tell you this?
 14 A. Prior -- right at the time we started
 15 sending it.
 16 Q. Okay. I see.
 17 A. That was about a year after.
 18 Q. So you thought -- didn't you think it was
 19 strange that he was asking you to do this when you
 20 hadn't been doing it for the previous year?
 21 A. That's why I questioned him on this.
 22 Q. All right. And specifically, what question
 23 did you pose to him?
 24 A. Why were we having to do this now and did
 25 not have to do it in the beginning.

Page 147

1 A. That is correct.
 2 Q. And the only other time that you had
 3 purchased anything from a compounding pharmacy is when
 4 you ordered the injections celiac plexus blue from
 5 Health and Wellness as well as the St. Thomas Plaza
 6 Pharmacy, and you did use prescriptions for those two
 7 purchases; correct?
 8 A. That is correct.
 9 Q. All right.
 10 A. They were a specific amount, a specific
 11 mixture for that one patient. It was not a...
 12 Q. So did you comply with this -- I mean,
 13 would it be fair for me to characterize -- to think
 14 that you thought Mario's request that you send patient
 15 lists up to NECC was strange?
 16 A. Yes, when I questioned him, his
 17 explanation, I understood his explanation.
 18 Q. All right. In your packet go to the 47th
 19 page, if you would, which is STOPNC_60.
 20 A. Uh-huh (affirmative).
 21 Q. Am I correct that you actually complied
 22 with Mario's request and began sending patient lists?
 23 A. Yes.
 24 Q. Okay. And how were those patient lists
 25 prepared?

Page 146

1 Q. And what was his response?
 2 A. It is being required by the Massachusetts
 3 Board of Pharmacy.
 4 Q. At any point did you go back and reference
 5 Paragraph G from the NECC brochure that explained to
 6 you that these drugs could only be dispensed through a
 7 patient-specific prescription?
 8 A. I don't recall doing that.
 9 Q. Okay. Why did you not do that?
 10 A. Why was it -- I didn't know it would be
 11 necessary.
 12 Q. You understood that New England Compounding
 13 Center was a compounding pharmacy, didn't you?
 14 A. Yes.
 15 Q. But you thought it was all right just to
 16 buy purportedly sterile solutions that would be
 17 injected into patients' spinal columns from a
 18 compounding pharmacy sometimes at 500 vials per order
 19 without any sort of individual prescriptions?
 20 A. I didn't give -- do prescriptions for
 21 anyone that I ordered from.
 22 Q. But you didn't -- when you started buying
 23 MPA from NECC, that was the first time you had bought
 24 epidural steroids from -- or that particular epidural
 25 steroid from a compounding pharmacy; is that correct?

Page 148

1 A. They printed a copy of a schedule.
 2 Q. And just because a patient was on the list
 3 did not necessarily mean that that patient would
 4 receive NECC compounded MPA; is that correct?
 5 A. That is correct.
 6 Q. So you sent a list -- or you began sending
 7 lists to NECC that did not actually correspond with
 8 who would receive the medicine that you were
 9 purchasing from NECC; is that true?
 10 A. That is true, but I had discussed that with
 11 Mario.
 12 Q. And so Mario said it was okay so you did
 13 it; correct?
 14 A. That is correct.
 15 Q. All right. And so did it strike you as
 16 strange that Mario was asking you to send lists of
 17 patients with patient names to NECC even though some
 18 of the patients on the list would not get NECC
 19 medication?
 20 A. I did question him on it, but if my rep
 21 says this is okay because I only have to have names
 22 because the Massachusetts Board of Pharmacy requires a
 23 name, this -- I made it clear to him, I do not --
 24 cannot guarantee these are patients are going to get
 25 this medicine, and that was substantial for him.

Page 149

1 Q. Did it strike you as strange that he was
 2 asking for a list of patients that did not correspond
 3 with who would receive the medicine?
 4 A. Yes, that's what I was explaining.
 5 Q. All right. And did he ever explain to your
 6 satisfaction why he was making that strange request?
 7 A. Yes. His explanation that the
 8 Massachusetts Board of Pharmacy needed this.
 9 Q. Needed random names of patients?
 10 A. They just needed names that --
 11 Q. And did that explanation make sense to you?
 12 A. I had dealt with pharmacies, state
 13 officials, a lot of things don't make sense that they
 14 request.
 15 Q. Did you make any effort to investigate
 16 that? Did you call the Massachusetts Board of
 17 Pharmacy and say, "What is this about"?
 18 A. No.
 19 Q. Did call them and say, "Hey, we -- our
 20 patient names are confidential. There's a HIPAA
 21 statute. It's a federal law that makes it illegal to
 22 send" --
 23 MR. GIDEON: Objection to the wind
 24 up. Ask her a question instead of giving
 25 her a speech, George, for Pete's sakes.

Page 151

1 name to NECC, was it?
 2 A. No, but I did not know who would see the...
 3 Q. So is it true that you did know that you
 4 and your clinic were sending names of patients to NECC
 5 even though some of those patients would not receive
 6 NECC drugs and sending their names to NECC was not
 7 necessary for their care? Did you know that?
 8 A. That's correct, but I wasn't sending any
 9 other pertinent information with that.
 10 Q. All right. And so back to my earlier
 11 question. For those patients that didn't get NECC
 12 drugs --
 13 A. Uh-huh (affirmative).
 14 Q. -- did you get their permission to send
 15 their names to a compounding pharmacy that they had no
 16 involvement with?
 17 A. No.
 18 Q. Do you think that that conduct violated
 19 HIPAA?
 20 A. No.
 21 Q. Do you think it was appropriate under
 22 HIPAA?
 23 A. Yes.
 24 Q. All right. What gives you that impression?
 25 A. I needed names to -- let's see how -- I did

Page 150

1 Q. (By Mr. Nolan) Did you know -- are you
 2 familiar with HIPAA?
 3 A. Yes.
 4 Q. All right. What's your understanding of
 5 that law's requirements?
 6 A. It is to protect the patient's information.
 7 Q. Okay. And did you get consent from any of
 8 the patients who weren't going to get NECC's medicine
 9 to send their names to this compounding pharmacy that
 10 they had no relationship with?
 11 A. Patients know that we can give their names
 12 to people -- to who -- what is needed for their care.
 13 Same with doing insurance or anything else I'm
 14 supplying, I have to supply a name.
 15 Q. Well, my question is: For the patients who
 16 did not get NECC drugs, it wasn't needed for their
 17 care for you to send their name up to NECC, was it?
 18 MR. GIDEON: Wait for him to ask a
 19 question. Make sure you understand the
 20 question.
 21 Q. (By Mr. Nolan) Was it?
 22 A. Repeat, I'm sorry.
 23 Q. Sure. For patients who did not receive
 24 NECC drugs but whose name was -- were on the list, it
 25 wasn't necessary for their care that you send their

Page 152

1 not violate any patient confidentiality in sending
 2 these names.
 3 Q. Well, I mean, this document, STOPNC_60, all
 4 the names except for one is redacted. Do you know why
 5 someone redacted all the names?
 6 A. There's -- I'm not sure I'm following you.
 7 Q. Well, is it your understanding that before
 8 this document was given to us, someone -- presuming
 9 your legal team -- redacted the names for the purpose
 10 of protecting the patient confidentiality?
 11 A. I assume so.
 12 Q. Yeah. But when you sent these lists to
 13 NECC, you didn't redact the names, did you?
 14 A. No.
 15 Q. Well, why did you redact the names when you
 16 sent it to us but you didn't redact the names when you
 17 sent it to NECC given that --
 18 MR. GIDEON: Objection to the form.
 19 She didn't redact the names. You just said
 20 we did. You want to ask her about what we
 21 did?
 22 Q. (By Mr. Nolan) Why are the names redacted
 23 when it was given to us when you did not redact the
 24 names before sending the lists that you provided to
 25 NECC?

<p style="text-align: right;">Page 153</p> <p>1 A. You will have to speak with my attorney on 2 that.</p> <p>3 Q. And so if we look at this list, it includes 4 not only the names, but it also includes the specific 5 reason for their visit to the clinic; is that correct?</p> <p>6 A. That is correct.</p> <p>7 Q. Okay. So not only did you provide NECC 8 with the names of people who did not receive their 9 medicines, but you also provided NECC with information 10 about why they were visiting the clinic?</p> <p>11 A. I'm providing information for the procedure 12 that was -- they needed the -- there's no diagnosis on 13 this.</p> <p>14 Q. So you gave NECC the names and the 15 procedure; is that correct?</p> <p>16 A. On this one, yes, it is.</p> <p>17 Q. All right. And for example, if we look 18 down the list, I see about 11 patients down someone 19 came in for a diagnostic lumbar facet block No. 2. Do 20 you see that?</p> <p>21 A. Yes.</p> <p>22 Q. W/J. What does that mean?</p> <p>23 A. My -- it's probably -- I'm thinking it may 24 be with Dr. Culclasure.</p> <p>25 Q. That is not --</p>	<p style="text-align: right;">Page 155</p> <p>1 hold a spot.</p> <p>2 Q. What's redacted on Mickey Mouse's line? Is 3 there something -- are we concerned about Mickey 4 Mouse's privacy or what's redacted there?</p> <p>5 A. Probably a patient's name that was the 6 consult. I don't know.</p> <p>7 Q. Did you tell Dr. Culclasure that NECC was 8 requesting these patient lists that didn't correspond 9 with the drugs they provided?</p> <p>10 A. He knew of this, yes.</p> <p>11 Q. He did know about it?</p> <p>12 A. Yes.</p> <p>13 Q. And how did he find out about it?</p> <p>14 A. I told him.</p> <p>15 Q. All right.</p> <p>16 A. It was discussed with him.</p> <p>17 Q. And when did you tell him?</p> <p>18 A. Whenever I was asked, Mario asked for it.</p> <p>19 Q. And what did he say?</p> <p>20 A. He was like -- he didn't see the issue with it.</p> <p>21 Q. So he approved it?</p> <p>22 A. Yes.</p> <p>23 Q. And who would have prepared these lists?</p> <p>24 A. Sandy Littleton would send them with the</p>
<p style="text-align: right;">Page 154</p> <p>1 A. I don't know.</p> <p>2 Q. -- an epidural steroid injection, is it?</p> <p>3 A. No.</p> <p>4 Q. That did not use NECC MPA, did it?</p> <p>5 A. I don't know for sure.</p> <p>6 Q. But we do know that that patient's 7 procedure and name was submitted to NECC; correct?</p> <p>8 A. I'm assuming so.</p> <p>9 Q. And in your view, was there anything wrong 10 with providing NECC with the names of patients who did 11 not receive their medicines as well as information 12 about the procedure that your clinic performed on that 13 patient?</p> <p>14 A. I believe we've answered that. I don't 15 mean to --</p> <p>16 MR. GIDEON: I believe we have.</p> <p>17 Q. (By Mr. Nolan) Now. At the bottom we see 18 Mickey Mouse's name is on the list. Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Tell me about that. Why is Mickey Mouse's 21 name on the list?</p> <p>22 A. Mickey Mouse is a -- is to hold a spot. If 23 you will look over, it says a consult that would have 24 been in the pain clinic. That way we would not have 25 scheduled a procedure in the surgery center. It's to</p>	<p style="text-align: right;">Page 156</p> <p>1 order.</p> <p>2 Q. Did it concern you at all that -- that NECC 3 was apparently attempting to paper over some sort of 4 requirement of the Massachusetts Board of Pharmacy?</p> <p>5 A. No.</p> <p>6 Q. Did it raise any red flags in your mind?</p> <p>7 A. No.</p> <p>8 Q. Did you ever -- did you discuss that 9 request by NECC with anyone other than Dr. Culclasure?</p> <p>10 A. Not that I recall. I retract. Sandy 11 Littleton was the nurse that would be doing the 12 ordering.</p> <p>13 Q. Anyone other than Nurse Littleton and 14 Dr. Culclasure?</p> <p>15 A. Unless there was someone that heard our 16 conversation. And the secretary. I take that back. 17 The secretary because she would print the schedule off 18 for her.</p> <p>19 Q. Okay. How would you -- how would you 20 transmit these lists to NECC?</p> <p>21 A. I think she faxed it.</p> <p>22 Q. Okay.</p> <p>23 A. I'm not sure. I believe she would fax the 24 order.</p> <p>25 Q. And so do you know who on the other end</p>

1 received the fax?
 2 A. I do not.
 3 Q. Do you know what NECC did with those lists?
 4 A. I do not.
 5 Q. But you were comfortable just sending lists
 6 of your clinic's patients' names up to NECC without
 7 knowing what would happen to the list --
 8 MR. GIDEON: Objection to the
 9 repetition.
 10 Q. (By Mr. Nolan) -- after they arrived?
 11 A. I did what they asked me to do.
 12 Q. All right. Let's go back to Page No. 15,
 13 which is STOPNC_093. Now, this is a fax cover sheet
 14 that appears to be dated June the 10th, and then
 15 somebody's also written in June the 14th. Do you see
 16 that?
 17 A. Yes, I do.
 18 Q. And it's a fax to John with NECC. Do you
 19 see that?
 20 A. Yes, I do.
 21 Q. If we go to the next page, which is STOPNC_
 22 82, there's a prescription order form. It appears to
 23 be dated June the 10th of 2011. Do you see that?
 24 A. Yes.
 25 Q. Does that appear to be the first order that

1 your clinic placed with NECC?
 2 A. I believe it is.
 3 Q. All right. Now, you see as we -- as we --
 4 as we look at this prescription order form, first of
 5 all, there's a place for the patient's name/signature
 6 at the bottom and it says Dr. John -- John Culclasure,
 7 M.D. Is that his signature?
 8 A. No, it is not.
 9 Q. Whose handwriting is that?
 10 A. That is mine.
 11 Q. Okay. And did Dr. Culclasure authorize you
 12 to sign his name to this prescription order form?
 13 A. That's not a signature.
 14 Q. Did Dr. Culclasure ever see this form at
 15 the time it was used?
 16 A. I do not know.
 17 Q. All right. Do you see how it's got a place
 18 for you to put the name of the patient on the form --
 19 A. Yes.
 20 Q. -- the column for that?
 21 And why was that not completed?
 22 A. It was not required.
 23 Q. Did it raise any alarm bells in your mind
 24 that NECC did not require that column to be completed?
 25 A. No.

1 Q. Did you view this order form to be a
 2 prescription?
 3 A. I viewed it as an order form.
 4 Q. Had you ever seen a form like this from any
 5 of your other suppliers?
 6 A. No.
 7 Q. So this -- using this method of purchasing
 8 these steroids, that was a new thing for you; correct?
 9 A. No, we purchased -- usually I could do it
 10 online or just do a call, phone call.
 11 Q. But using a form like this was a new thing
 12 for you; correct?
 13 A. I can't -- I'm not sure because I have
 14 used -- I have filled out other forms, order forms and
 15 all.
 16 Q. Do you recall ever using a form like this
 17 before?
 18 A. From NECC, no, but I have used forms to
 19 order various other supplies through my years.
 20 Q. Do you ever recall using a form like this
 21 one where it says prescription order form and there's
 22 a list for patient names that's left blank?
 23 A. Not that I recall.
 24 Q. Would I be correct in thinking that no
 25 other supplier of medicines has ever asked you to send

1 a patient list to them when you bought the medicines;
 2 is that true?
 3 A. Not that I can ever recall.
 4 Q. All right. It looks like the next page is
 5 an account application -- account information credit
 6 application. Do you see that?
 7 A. Yes.
 8 Q. All right. And so if we go back to our fax
 9 cover page, two pages earlier, it says -- it looks
 10 like there's three pages in the fax including the
 11 cover. Do you see that?
 12 A. Yes.
 13 Q. Then we have the order form and then we
 14 have the credit application. Do you see that?
 15 A. Yes.
 16 Q. So does that appear to be the fax that
 17 you-all sent that day on June the 10th?
 18 A. It does.
 19 Q. All right. Let's go to the 18th page,
 20 which is STOPNC_309. This is an e-mail from you to
 21 Clinton Ebel of Clint Pharmaceuticals dated June the
 22 15th of 2011; is that correct?
 23 A. Correct.
 24 Q. All right. And then you say, "Good
 25 morning, Clint. Have a question about our most recent

Page 161

1 drug order from your company. We ordered
 2 methylprednisolone 80 milligram/milliliter, 400 vials
 3 and were told pricing had increased to \$8.98 per vial.
 4 This is 2.49 percent -- \$2.49 increase per vial. When
 5 asked about the reason for this sudden jump, we were
 6 told it was due to supply and demand. This" --

7 MR. GIDEON: No. Objection. Read it
 8 correctly.

9 Q. (By Mr. Nolan) "Is this -- is this to be
 10 expected anytime we place an order with your company?
 11 Pricing depends on supply and demand?"

12 Have I read that paragraph basically
 13 correctly?

14 A. Yes, you have.

15 Q. So the price increase that motivated you to
 16 switch to NECC was \$2.49 per vial; is that correct?

17 A. That along with the shortage. The shortage
 18 was the main reason.

19 Q. All right. The next page, STOPNC_17, does
 20 this appear to be the -- the invoice for your first
 21 order from NECC?

22 A. Yes.

23 Q. All right. And then the next page,
 24 STOPNC_310, we have Mr. Ebel's response to your e-mail
 25 about the price increase and he responded it looks

Page 162

1 like five days later on June the 20th. Do you see
 2 that?

3 A. Yes.

4 Q. And he mentions the shortage there in his
 5 e-mail. Do you see that?

6 A. Yes.

7 Q. Okay. And then at the top, you respond by
 8 saying, "You can control inventory and stockpiling by
 9 limiting the amount of product you sell to your
 10 customers at one time, especially when your product
 11 cost did not change."

12 Do you see that paragraph that you wrote to
 13 him?

14 A. Yes, I do.

15 Q. So you were not satisfied with Mr. Ebel's
 16 response; is that correct?

17 A. That is correct. I think you would have
 18 been -- anyone would have been disgusted with that
 19 one.

20 Q. All right. Let's go to the 22nd page,
 21 which is STOPNC_12. Then we have Mr. Ebel's response
 22 back to you; is that correct?

23 A. Correct.

24 Q. When is the last time you talked with
 25 Mr. Ebel?

Page 163

1 A. That -- I don't know.

2 Q. Well, what would be your best estimate of
 3 when you last talked to him?

4 A. I don't know if I talked to them after
 5 that. I don't know.

6 Q. Have you talked to him since the fungal
 7 meningitis outbreak?

8 A. Not that I recall. I don't know. I don't
 9 remember.

10 Q. Do you know if he still works for Clint
 11 Pharmaceuticals?

12 A. I do not know.

13 Q. Has Clint Pharmaceuticals solicited your
 14 clinic's business since the fungal meningitis
 15 outbreak?

16 A. They have not called -- they have not
 17 called to get my business. They send me, you know,
 18 periodical things through the mail.

19 Q. All right. Let's go to the 24th page,
 20 which is STOPNC_5349. And this appears to be an
 21 e-mail exchange between you and Maurice -- Marlese
 22 Allen; is that correct?

23 A. Correct.

24 Q. Who does she work for?

25 A. She works for Howell Allen.

Page 164

1 Q. And what is her job?

2 A. She is human resource and accounts payable.

3 Q. Okay. All right. And so who actually paid
 4 for the drugs that were purchased from NECC?

5 A. The outpatient surgery center pays for
 6 them.

7 Q. All right. Okay. Is Ms. Marlese Allen
 8 involved in that?

9 A. Yes.

10 Q. Okay. And is her office at St. Thomas
 11 Neurosurgical or is it over at the Howell Allen
 12 Clinic?

13 A. It's at the Howell Allen Clinic.

14 Q. Okay. So the check -- would I be correct
 15 in understanding that the checks that were used to pay
 16 for these drugs actually came from the Howell Allen
 17 Clinic?

18 A. I would assume. I don't see the checks
 19 so...

20 Q. Okay. But the -- whoever was in charge of
 21 writing the checks, they worked over at the Howell
 22 Allen Clinic and did not work inside St. Thomas
 23 Neurosurgical; is that true?

24 A. They did not work in our building.

25 Q. Right. They worked -- what building did

Page 165

1 they work in, the person who would be in charge of
 2 writing the checks to NECC?

3 A. They're at the -- at the Baptist north
 4 tower in the office -- in the Howell Allen office.

5 Q. I see. Okay. And your e-mail to Marlese
 6 Allen says, "I sent invoice from Clint Pharmaceuticals
 7 to you today. Hold this."

8 Now, let me stop there. Are you referring
 9 to the June 9th of 2011 invoice from Clint that
 10 contained the price increase?

11 A. Well, the next sentence says, "I'll be
 12 sending a new invoice for this order."

13 Q. Okay. So what does that mean to you?

14 A. That means they're sending a new invoice
 15 for the order I assume with the correct pricing. I
 16 don't know.

17 Q. Okay. Well, take a minute to read that
 18 e-mail if you would.

19 A. You want me to read it aloud?

20 Q. Yeah, read it aloud.

21 A. "I sent invoice from Clint Pharmaceuticals
 22 to you today. Hold this. They will be sending a new
 23 invoice for this order. Since there is a shortage on
 24 steroids, they decided to up their price \$2.49 a vial.
 25 Stated this was for inventory control. I e-mailed

Page 166

1 them and told them I thought this was not fair. They
 2 didn't pay extra for this drug. If they want to do
 3 inventory control, limit the amount you can order at
 4 one time. Anyway, they're going to let us have this
 5 invoice at \$6.49 a vial instead of the \$8.95 listed on
 6 invoice. Of course next order will be at \$8.95, but I
 7 may not be ordering from them again. Just saved us
 8 \$996 by sending an e-mail. I think we should
 9 celebrate."

10 Q. Okay. Fair enough. And then if we look at
 11 the next page, does this appear to be the replacement
 12 invoice that was sent by Clint Pharmaceuticals also
 13 dated June the 9th, 2011, but containing the price
 14 that you had originally expected, the \$6.49 a vial?

15 A. That's the date. It appears that way.

16 Q. Okay.

17 A. It says this replaces.

18 Q. All right. So that we understand the
 19 sequence of events, after you challenged Mr. Ebel
 20 about the price increase, he -- his company agreed to
 21 redo the invoice and knock the price for that
 22 particular order back down to \$6.49; correct?

23 A. That is correct.

24 Q. But as indicated by your previous invoice,
 25 you understood that going forward it would be \$8.95 a

Page 167

1 vial?

2 A. That's what he told me.

3 Q. Okay. Well, let's look at your notes.
 4 Your first note -- that is your handwriting on this
 5 invoice; correct?

6 A. Correct.

7 Q. All right. And let's start over on
 8 the left-hand part of the page. Read that top note to
 9 us.

10 A. 6/23/11?

11 Q. Yes, ma'am.

12 A. "This invoice replaces previous invoice on
 13 methylprednisolone 80 per mL. This has correct
 14 pricing of \$6.49. Other invoice \$8.95."

15 Q. Okay. Now, then beside that, we have
 16 another note. Is it dated August the 9th?

17 A. That's what it appears.

18 Q. All right. And that's your handwriting?

19 A. Correct.

20 Q. Okay. Read that one to us.

21 A. "Spoke with -- spoke with Clint. He called
 22 me. Stated we could order 2,000 vials at \$7.49 or
 23 seven" -- I don't know if that's a nine or a -- 7.95.
 24 I don't -- I can't read my writing. "Stated national
 25 shortage. Told him we were okay at the moment and did

Page 168

1 not wish to order. Asked him to issue Marlese the
 2 credit of \$980."

3 Q. So I take it from this note that on August
 4 the 9th you spoke with Clint of Clint Pharmaceuticals
 5 and he told you that you could order 2,000 vials from
 6 his company at either \$7.49 or \$7.90 something per
 7 vial; correct?

8 A. Correct.

9 Q. All right. Vials of what?

10 A. Well, we're dealing with the
 11 methylprednisolone.

12 Q. Okay. And that would have been -- if you
 13 had bought it from Clint, would that have been generic
 14 methylprednisolone made by a pharmaceutical company
 15 containing at least some alcohol as a preservative?

16 A. I'm assuming. I can't even remember
 17 what's -- what brand they sent us at the moment. But
 18 if it was generic, it would have been.

19 Q. All right. Did you consider -- when you
 20 got that information from Clint Pharmaceuticals, did
 21 you consider buying the 2,000 vials from that supplier
 22 at the somewhat higher price so as to avoid the risks
 23 associated with buying from a compounding pharmacy?

24 MR. GIDEON: Objection to the form.

25 THE WITNESS: I didn't want to buy

Page 169

1 from Clint Pharmaceuticals again because
 2 they had just told me that they were
 3 inventoried and to prevent people from
 4 stockpiling.
 5 Q. (By Mr. Nolan) Turn to the 28th page, if
 6 you would, please, ma'am, STOPNC_6161. This is an
 7 e-mail exchange between you and Shreka Rogers where
 8 she asks, "Depo-Medrol 80 milligrams, how much do we
 9 pay for it," and you answered, "Methylprednisolone
 10 acetate 80 milligrams, \$6.50, 80 milligrams." Do you
 11 see that?
 12 A. Yes.
 13 Q. Why was she asking that question?
 14 A. That, I don't know from this.
 15 Q. Well, do you have any memory of why she was
 16 asking the question?
 17 A. No.
 18 Q. Can you remind me what her job -- what was
 19 her job at that time?
 20 A. She's business manager.
 21 Q. Of?
 22 A. The Howell Allen Clinic.
 23 Q. Was it common for Ms. Rogers to make
 24 inquiries about what St. Thomas Neurosurgical was
 25 spending on steroids?

Page 171

1 Do you see that?
 2 A. Yes.
 3 Q. And then it looks like his fourth bullet
 4 point at the top of the next page is "Medication
 5 differences between the competition and STOPNC."
 6 Do you see that?
 7 A. I see that.
 8 Q. All right. So Mr. Butler was one of your
 9 supervisors. You would have considered him, I guess,
 10 one of your bosses; correct?
 11 A. Correct.
 12 Q. All right. And so who was that about? Why
 13 was your boss e-mailing you about medication
 14 differences between the competition and STOPNC?
 15 A. I'm -- I'm not sure, but I will take a
 16 guess at this one. The medication they're talking
 17 about is the anticoagulants. Our policy on the -- how
 18 long a patient must be off the anticoagulants prior to
 19 scheduling an ESI. That would be the only --
 20 MR. GIDEON: You've answered it.
 21 Q. (By Mr. Nolan) Let me ask you to refer to
 22 Page 54, if you would. And it's STOPNC_2472. Now,
 23 this is an e-mail from Dr. Culclasure to you; correct?
 24 A. Yes.
 25 Q. All right. And Dr. Culclasure was the

Page 170

1 A. She handled the business office portion of
 2 it. I don't -- for our facility. I don't...
 3 Q. And in terms of your efforts to control
 4 price and control costs, who -- who supervised that
 5 aspect of your work, if anyone?
 6 A. No one on that aspect of it.
 7 Q. All right. Go to the 31st page, Page 31,
 8 STOPNC_1574. What is this about?
 9 A. I have no idea. I don't remember.
 10 Q. Well, look at the next page. It looks to
 11 me like a package of NECC product was apparently
 12 delivered over to the hospital pharmacy. Is that what
 13 happened? Is that -- do these e-mails refresh your
 14 memory as to that event?
 15 A. Well, in reading my reply, it -- I'm just
 16 going by what the reply says. I don't remember this
 17 incident.
 18 Q. All right. Let me ask you to turn to Page
 19 44, which is STOPNC_5497. Now, this is an e-mail
 20 exchange between you and Scott Butler; correct?
 21 A. Correct.
 22 Q. And let's start with Mr. Butler's e-mail to
 23 you, which is down at the bottom of that page. It
 24 looks like the subject of the e-mail was "Complaints
 25 about scheduling at STOPNC from secretaries."

Page 172

1 medical director at St. Thomas Neurosurgical and he
 2 was also someone you reported to; is that correct?
 3 A. That is correct.
 4 Q. Okay. And so he would be one of your
 5 bosses. Is that fair?
 6 A. That is correct.
 7 Q. And Dr. Culclasure is forwarding to you an
 8 e-mail that he received from a Dr. Manchikanti in
 9 Paducah, Kentucky who is apparently the chairman of
 10 the board and chief executive officer of the ASIPP,
 11 which I think is the American Society of
 12 Interventional Pain Physicians. Did you read this
 13 e-mail that your boss had forwarded to you?
 14 A. I'm sure I did at the time.
 15 Q. Okay. All right. Well, then
 16 let's look at this, if we could. The first paragraph,
 17 last sentence says, "While this is not only very
 18 expensive, tedious and unnecessary, there are more
 19 cases of infections and increased risk with
 20 compounding rather than dividing the single doses into
 21 multiple doses in an office itself."
 22 Do you see that sentence?
 23 A. I see it.
 24 Q. What is that about?
 25 A. I -- I don't know. I'd have to read.

Page 173

1 Q. All right. Go ahead.
 2 A. This article is speaking -- or this thing
 3 is speaking to -- it's regarding Omnipaque.
 4 Q. Okay. You see on the second page, the
 5 paragraph that's underneath the column of numbers
 6 where it says, "Thus even if a compounding pharmacy,
 7 which we consider not to be very safe, revised it, it
 8 would be double or triple the price we would be paying
 9 when we used a single-dose vial on multiple patients."
 10 You see that paragraph?
 11 A. Yes.
 12 Q. Do you know why -- first of all, do you
 13 know who "we" is in that sentence?
 14 A. No, I don't know.
 15 Q. When you read it, did you take it to mean
 16 that it was the American Society of Interventional
 17 Pain Physicians?
 18 A. I don't know that I gave it thought on
 19 that.
 20 Q. Okay. And so what was your reaction when
 21 you read it, to the statement that even if a
 22 compounding pharmacy, which we consider not to be very
 23 safe, what was your reaction to that sentence when you
 24 read it?
 25 A. I don't remember because it was referring

Page 175

1 didn't approach the St. Thomas Plaza Pharmacy?
 2 A. They're -- that's not something I would
 3 order from.
 4 Q. Now, I want to get back to the two reasons
 5 that you initially mentioned as to why you -- what you
 6 call the primary reasons for going with NECC, the
 7 shortage, and I think you said that having a truly
 8 preservative-free MPA product was better for the
 9 patients. Have I characterized that fairly?
 10 A. Yes, those are the main reasons.
 11 Q. Okay. So who told that you it was better
 12 for the patients?
 13 A. I went on Dr. Culclasure's recommendation.
 14 Q. Okay. Did you do any independent research
 15 on that particular issue?
 16 A. No.
 17 Q. Did you ever inquire as to whether
 18 CuraScript or Clint Pharmaceuticals could provide a
 19 truly preservative-free steroid?
 20 A. They provided me what they said was a
 21 preservative-free, but we know that it did have
 22 alcohol in it, but they considered it
 23 preservative-free.
 24 Q. Did -- so if I understand it, there are
 25 some differences between Depo-Medrol -- brand name

Page 174

1 to the Omnipaque.
 2 Q. Okay. So did that statement by Dr.
 3 Manchikanti raise any red flags in your mind about the
 4 safety of purchasing from NECC?
 5 A. Not that I recall.
 6 Q. Did you discuss this e-mail with
 7 Dr. Culclasure?
 8 A. I don't remember.
 9 MR. NOLAN: Why don't we take a short
 10 break.
 11 THE WITNESS: Okay.
 12 VIDEOGRAPHER: We're off the record.
 13 This is the end of Tape No. 3. The time is
 14 2:42 p.m.
 15 (A recess was taken.)
 16 VIDEOGRAPHER: Here begins Tape No. 4
 17 in the deposition of Debra Schamberg.
 18 We're back on the record and the time is
 19 2:57 p.m.
 20 Q. (By Mr. Nolan) Ms. Schamberg, during the
 21 shortage that you've mentioned, did you ever approach
 22 the St. Thomas Plaza Pharmacy about whether they could
 23 supply MPA to your facility?
 24 A. Not that I recall.
 25 Q. Is there any particular reason why you

Page 176

1 Depo-Medrol and the MPA that you were acquiring from
 2 NECC. One difference is that the brand name
 3 Depo-Medrol is made by a company called Pfizer as
 4 opposed to New England Compounding Center. You would
 5 agree that's a difference between those two products?
 6 A. Okay.
 7 Q. You agree?
 8 A. Yes.
 9 Q. And another difference is the ingredients
 10 are different to a certain degree because Depo-Medrol
 11 by Pfizer contains a small amount of alcohol whereas
 12 the material that you received from NECC did not; is
 13 that correct?
 14 A. That is correct.
 15 Q. Okay. Did St. Thomas Neurosurgical at the
 16 time you started buying from NECC have a written
 17 formulary?
 18 A. Yes.
 19 Q. And what is a formulary?
 20 A. It's the drugs that you can carry in
 21 your -- that can be used at your facility.
 22 Q. Okay. And how was the written formulary
 23 developed?
 24 A. It was in place when I took over.
 25 Q. And was it in place when you originally

Page 177

1 started working there in 2000 -- in the year 2000?
 2 A. Yes.
 3 Q. Okay. And it was in place when you came
 4 back to be facility director in 2009; is that correct?
 5 A. That is correct.
 6 Q. And is the formulary a written policy that
 7 St. Thomas Neurosurgical expected its employees to
 8 follow?
 9 A. Formularies says drugs that can be used in
 10 the facility.
 11 Q. And so what is your understanding of who
 12 established the formulary?
 13 A. It was originally established, I'm
 14 assuming, by the anesthesiologist.
 15 Q. And so what is the purpose of having a
 16 written formulary that lists what drugs can be used in
 17 the facility? Why take the trouble to write that down
 18 on a list?
 19 A. There's certain drugs that are on the
 20 market that would not be needed in an ambulatory
 21 surgery center. It's to control.
 22 Q. So I take it, then, that the people who
 23 worked at St. Thomas Neurosurgical were not allowed
 24 just to haul off and give any old drug to a patient.
 25 If a drug was given to a patient it had to be on the

Page 179

1 A. Yes.
 2 Q. Okay. And so when you decided to purchase
 3 a truly preservative-free MPA from NECC, you went off
 4 formulary because that -- the ingredients of that
 5 medicine are different from Depo-Medrol?
 6 A. Depo-Medrol is considered a
 7 preservative-free corticosteroid. So it was
 8 methylprednisolone.
 9 Q. Well, but as we've discussed, Depo-Medrol
 10 does contain some alcohol; correct?
 11 A. But it's listed as preservative-free.
 12 Q. All right. But it does contain some
 13 alcohol; true?
 14 A. Yes.
 15 Q. All right. And so that's different than
 16 the stuff that you bought from NECC; correct?
 17 A. With the alcohol, yes.
 18 Q. All right. So when you started buying from
 19 NECC, you went off formulary; correct?
 20 A. I don't consider that going off formulary,
 21 what you're implying, sir.
 22 Q. Can you explain why this formulary doesn't
 23 list truly preservative-free MPA.
 24 A. It doesn't list preservative-free on the
 25 others either. I -- you know, I do not know. I can't

Page 178

1 formulary; is that correct?
 2 A. We -- correct.
 3 (Exhibit 40 was marked for
 4 identification.)
 5 Q. (By Mr. Nolan) And let me hand you what we
 6 will make Exhibit No. 40, which is STOPNC_ -- which
 7 begins at STOPNC_533. And let me ask you whether this
 8 is a copy of the formulary that was in place at St.
 9 Thomas Neurosurgical at the time you started ordering
 10 drugs from NECC.
 11 A. Yes.
 12 Q. And if we look at the fifth page of the
 13 document, it lists the corticosteroids for use at the
 14 facility. Do you see that?
 15 A. Yes.
 16 Q. All right. It lists four different
 17 corticosteroids; correct?
 18 A. Yes.
 19 Q. Including Depo-Medrol; correct?
 20 A. That is correct.
 21 Q. It does not list truly preservative-free
 22 MPA, does it?
 23 A. Not that -- not as -- does it list MPA. It
 24 lists the brand name.
 25 Q. It lists Depo-Medrol?

Page 180

1 answer why it did not specify that particular --
 2 Q. Do you know whether the shelf life for
 3 Depo-Medrol that does contain some alcohol is longer
 4 than the shelf life of truly preservative-free MPA
 5 like you're getting from NECC?
 6 A. I don't -- I don't -- I do not know the
 7 shelf life.
 8 Q. Okay. How long did you keep the material
 9 that you purchased from NECC on the shelf or in the
 10 drawer, however you store it, before you gave it to
 11 patients?
 12 A. I mean, I -- I have no way of knowing --
 13 I'm not sure I follow your question.
 14 Q. Well, do you know when you order from NECC
 15 what would be the longest period of time that you
 16 would keep vials in the drawer before injecting the
 17 solution in the patients?
 18 A. There's -- again, there's no way of
 19 knowing. We would use the medication, if you're
 20 asking, prior to the expiration date.
 21 Q. Do you know whether buying this material
 22 from NECC with zero alcohol with it in bulk, 500 vials
 23 a shot --
 24 MR. GIDEON: Objection to the form.
 25 Q. (By Mr. Nolan) Do you know whether and

1 when keeping it that way involved any increased risk
 2 that germs would grow in the solution and cause
 3 infections with the patients as compared to buying
 4 Depo-Medrol that does have some alcohol in it?

5 A. No.

6 (Exhibit 41 was marked for
 7 identification.)

8 Q. (By Mr. Nolan) Let me hand you a document
 9 which we will make Exhibit 40, which begins at
 10 STOPNC_6758.

11 MR. GIDEON: That's not right. We
 12 just did Exhibit 43, according to you.

13 MR. NOLAN: That's my mistake. Let
 14 me have that back. I need to pay more
 15 attention.

16 Q. (By Mr. Nolan) I'm going to put the
 17 correct label on it. So the next exhibit will be
 18 Exhibit 41.

19 MR. CLINE: What's the Bates number
 20 on it?

21 Q. (By Mr. Nolan) Let's try that again.
 22 Exhibit 41 at Bates number STOPNC_6758, can you tell
 23 us what this is.

24 A. This is the medical staff rules and
 25 regulations for the St. Thomas Outpatient

1 Do you see that?

2 A. Yes.

3 Q. What does that mean?

4 A. We will only give medications that we have
 5 at the facility. The next sentence explains that the
 6 medication -- if the patient brings their medication
 7 from home, we do not dispense that unless the
 8 practitioner or doctor approves you can use their
 9 medication.

10 Q. Okay. And so is there a pharmacy at St.
 11 Thomas Neurosurgical?

12 A. There's a pharmacy room, but, no, there's
 13 not a pharmacy.

14 Q. All right. Pharmacy room?

15 A. There's an area.

16 Q. And on the next page, Paragraph 2 says,
 17 "All drugs and medications administered to patients
 18 shall be those listed in the center formulary as
 19 approved by the center's medical staff."

20 Did I read that correctly?

21 A. Yes, sir.

22 Q. Were you aware that there was a specific
 23 rule that required folks in your clinic to follow the
 24 formulary?

25 A. We do follow the formularies.

1 Neurosurgical Center.

2 Q. All right. Have you seen this document
 3 before?

4 A. In the past, I have, I'm sure.

5 Q. All right. And what's the purpose of
 6 having rules and regulations like this?

7 A. It's a guideline to go by.

8 Q. And is following the guidelines like this
 9 important to patient safety?

10 A. Yes.

11 Q. And is following written formularies, in
 12 your view, important to patient safety?

13 A. Yes.

14 Q. And why is following formularies important
 15 to patient safety? How does that enhance patient
 16 safety?

17 A. I'm not sure how to answer. I'm getting a
 18 roadblock on this.

19 Q. Okay. Let's look at Page 4 of the rules
 20 and regulations, and the subheading "Drugs." Do you
 21 see that?

22 A. Yes.

23 Q. You see where it says, in Paragraph 1,
 24 "Patients shall be given only medications dispensed by
 25 qualified staff of the center pharmacy."

1 Q. And do you agree that it would be
 2 substandard medical care to give patients drugs at
 3 your clinic that are not on the formulary?

4 MR. GIDEON: Objection to the form.

5 Q. (By Mr. Nolan) You can go ahead and
 6 answer.

7 A. No, I don't -- you're saying that what we
 8 used was not on the formulary. We considered that it
 9 was.

10 Q. Is it -- was there any documentation of
 11 that?

12 A. That --

13 Q. In other words, were there any e-mails
 14 written, any notes taken, any forms filled out to
 15 document your position that this material that was
 16 being ordered from NECC, which was not Depo-Medrol,
 17 was on the formulary?

18 MR. GIDEON: Objection to the form.

19 Q. (By Mr. Nolan) Is that documented
 20 anywhere, to your knowledge?

21 A. I don't know that it is. I know when I --
 22 I can order anywhere. It's the brand name. Like you
 23 can order Motrin, but you're going to get ibuprofen.

24 Q. All right. Did -- did St. Thomas
 25 Neurosurgical have any sort of written policies or

1 procedures as to what to do in the event of a
 2 medication shortage?
 3 A. Yes, we do.
 4 Q. And tell us -- tell us what you're supposed
 5 to do when confronted with a medication's shortage.
 6 A. Not without reading.
 7 Q. So as we sit here today, am I correct that
 8 you do not have an independent memory as to what is
 9 required from a policy standpoint if you're confronted
 10 with a medication shortage?
 11 A. I'm going to consult with my medical
 12 director and we'd go from there.
 13 Q. All right. Let me hand you a document
 14 we're going to make Exhibit No. 42. It's STOPNC_308.
 15 And ask you if this is, in fact, a copy of the policy
 16 that you mentioned.
 17 (Exhibit 42 was marked for
 18 identification.)
 19 THE WITNESS: Yes, it is.
 20 Q. (By Mr. Nolan) You see where the policy
 21 requires that you communicate the shortage and
 22 practice changes to all personnel?
 23 A. Yes.
 24 Q. Okay. And was that done as far as this
 25 shortage that motivated you to start buying from NECC?

1 A. The staff knew that there was a shortage,
 2 yes.
 3 Q. All right. And how was it communicated to
 4 the staff?
 5 A. Verbally.
 6 Q. Is there anything in writing that shows
 7 that a shortage was communicated to the staff?
 8 A. I -- not that I -- I don't know. I don't
 9 remember.
 10 Q. Is there anything in writing indicating
 11 that the shortage was communicated to the board or the
 12 medical executive committee?
 13 A. Not that I recall.
 14 Q. Did -- did the clinic have any procedure
 15 for making changes on the formulary, adding a drug to
 16 the formulary, for example?
 17 A. If a drug needed to be added to the
 18 formulary, we would submit a -- the medical director
 19 would sign off on a -- for the request and it would be
 20 submitted to the board.
 21 Q. Okay. Submitted to the board?
 22 A. Well, the MEC and I guess the board, both.
 23 Q. And so was it your understanding that both
 24 the medical executive committee and the board had to
 25 approve any changes to the formulary?

1 A. If we were adding or deleting medication to
 2 the formulary, it went to the --
 3 Q. All right. And so is that level of review
 4 by those two different committees also a matter of
 5 patient safety?
 6 A. I would assume so.
 7 Q. Let me hand you a document we'll make
 8 Exhibit No. 43, which is STOPNC_307 and I'm going to
 9 ask you to tell us what this is.
 10 (Exhibit 43 was marked for
 11 identification.)
 12 THE WITNESS: It's the -- or
 13 formulary drug evaluation request.
 14 Q. (By Mr. Nolan) So is this a form that
 15 would be completed if someone wanted to add a drug to
 16 the formulary?
 17 A. Yes.
 18 Q. Okay. And so this -- this form would be
 19 filled out and then it would be approved by the
 20 medical director, the medical executive committee, as
 21 well as the board of St. Thomas Neurosurgical; is that
 22 correct?
 23 A. That is correct.
 24 Q. All right. That process was never
 25 undertaken with respect to your decision and

1 Dr. Culclasure's decision to begin purchasing from
 2 NECC; is that true?
 3 A. We did not use this for NECC.
 4 Q. Do you know why changes to the formulary
 5 require, I guess, three levels of review, the medical
 6 director, the medical executive committee and
 7 ultimately the board?
 8 A. It just goes through the chain of command
 9 to make sure everyone knows.
 10 Q. And would you agree that adding drugs for
 11 use in the clinic without appropriately amending the
 12 formulary and going through that review could be
 13 dangerous for patients?
 14 MR. GIDEON: Objection to the form.
 15 THE WITNESS: Not necessarily, I
 16 don't.
 17 Q. (By Mr. Nolan) Did you ever talk with a
 18 pharmacist named Martin Kelvas at St. Thomas Hospital?
 19 A. Not that I recall.
 20 Q. What about Carmen Leffler?
 21 A. Not that I recall.
 22 Q. How did you first learn that there was a
 23 problem in September -- I think you said on September
 24 the 18th, 2012? How did you first become aware that
 25 there was a problem with a potential meningitis issue?

<p style="text-align: right;">Page 189</p> <p>1 A. I received a call from Candace Smith, who 2 is the infection prevention nurse at St. Thomas 3 Hospital. 4 Q. All right. And now that you bring up Ms. 5 Smith, you knew Ms. Smith before she called you that 6 day; is that correct? 7 A. That is correct. 8 Q. In fact, she would actually help St. Thomas 9 Neurosurgical with some of its infection control measures; is that true? 10 A. That is correct. 11 Q. Okay. And she is an employee of whom? 12 A. St. Thomas Hospital. 13 Q. Okay. And so why is it that a St. Thomas 14 Hospital employee would help St. Thomas Neurosurgical 15 with its infection control procedures? 16 A. That's not uncommon. I could talk to 17 someone at Baptist or Skyline, anywhere. 18 Q. All right. But did anyone other than Ms. 19 Smith from St. Thomas Hospital come in and assist St. 20 Thomas Neurosurgical with infection control issues 21 before the outbreak? 22 A. Just there may have been somebody in her 23 department, but, no, I -- there was no need for it. 24 Q. Okay. What sort of infection control</p>	<p style="text-align: right;">Page 191</p> <p>1 You cannot sterilize the skin, but you can cleanse the 2 skin. 3 Q. And so all of those essential procedures 4 were set out in writing, I assume; is that correct? 5 A. The guideline, they have a guideline to... 6 Q. And Ms. Smith, would she come over and 7 periodically inspect your procedures and sterility 8 protocols and help you -- 9 A. No. 10 Q. All right. Well, what exactly was her role 11 as far as infection prevention at St. Thomas 12 Neurosurgical? 13 A. She had no role. She -- if I had a 14 question, I could call her and ask her. 15 Q. But did she ever get paid to come over and 16 help you-all with infection control? 17 A. No. 18 Q. That never happened? 19 A. Not that I'm aware of. 20 Q. All right. So we took a sidetrack. You 21 indicated that you first received a call from Ms. 22 Smith on September 18th. Tell us the story. What 23 happened next? 24 A. Ms. Smith called, told me that there was a 25 patient that had been -- she had been notified that</p>
<p style="text-align: right;">Page 190</p> <p>1 measures were used at St. Thomas Neurosurgical? 2 A. Rephrase that. What are you -- 3 Q. Tell us what types of infection control 4 measures were used at St. Thomas Neurosurgical. 5 A. I mean, you -- you're always monitoring 6 your infection control on a day-to-day procedural 7 basis. 8 Q. And explain those procedures to us. 9 A. You make sure sterile technique is used, 10 that rooms are being cleaned and that protocol is 11 being followed as best could -- that it can be. 12 Q. And what sterile techniques are you 13 referring to? 14 A. For the procedures. When the physician is 15 doing the procedure. 16 Q. So does the physician wear sterile masks? 17 A. Not sterile masks. 18 Q. Do they wear gloves? 19 A. They wear sterile gloves. 20 Q. And a gown? 21 A. Not for an epidural, a gown is not needed. 22 Q. All right. So what sterile materials are 23 used for an epidural steroid injection? 24 A. An epidural tray, the needles, supplies in the tray, sterile gloves, you're cleaning the patient.</p>	<p style="text-align: right;">Page 192</p> <p>1 the patient had Aspergillus fungal infection and that 2 she was checking to see if that patient was treated -- 3 had an epidural at St. Thomas Outpatient Neurosurgical 4 Center. 5 Q. And what happened next? 6 A. I was on vacation so I notified -- sent an 7 e-mail to Dr. Culclasure to please check the following 8 day to see if that is a patient of ours, if he was a 9 patient of ours. 10 Q. Did he do that? 11 A. Yes, he did. 12 Q. And what happened next? 13 A. He responded to me that he had -- that, 14 yes, this gentleman was a patient of ours, but he 15 had -- in reading his record, his office record note, 16 that he had -- this patient had been seen in the ER at 17 St. Thomas Hospital to rule out Rocky Mountain spotted 18 fever. 19 Q. All right. And what happened next? 20 A. That was on Wednesday. On -- there again, I'm on vacation. I'm going by what I was told. But on Thursday, they were informed that two more patients had become ill. So we voluntarily stopped procedures until we could figure out what's going on. 22 Q. All right. And so was that September 20th?</p>

Page 193

1 A. Yes.
 2 Q. And so when did you learn that the first
 3 person had died of fungal meningitis?
 4 A. I don't know the exact day. It was the
 5 following week, I think. I don't know the exact day.
 6 Q. Do you remember where you were when you
 7 learned that fact that someone had died?
 8 MR. GIDEON: That's somebody on the
 9 phone. Don't worry about that.
 10 THE WITNESS: I don't remember. I
 11 don't remember if I was at -- was at home
 12 or if I had come back to work.
 13 Q. (By Mr. Nolan) Okay. And so talk with us
 14 about your involvement and any interactions with the
 15 Tennessee Department of Health.
 16 A. Tennessee Department of Health contacted me
 17 on -- I'm not sure. They may have contacted me at
 18 home on Sunday regarding this -- some type of
 19 outbreak, they weren't sure, and then they -- my next
 20 conversation with them was on Monday.
 21 Q. How did St. Thomas Neurosurgical go about
 22 notifying patients that they may have -- they should
 23 get checked, they may be infected with a
 24 life-threatening disease?
 25 A. We called the patients.

Page 194

1 Q. All right. And so tell us about that
 2 process.
 3 A. About which process?
 4 Q. Calling the patients.
 5 A. Our -- the staff began calling patients on
 6 Monday, 24th, and -- to see if there was any problems
 7 and how they were doing.
 8 Q. Okay.
 9 A. If there were issues, they were having any
 10 problems, they spoke with the -- one of the nurses or
 11 the doctor.
 12 Q. All right. And so eventually was a script
 13 prepared for people working at St. Thomas
 14 Neurosurgical to use when calling patients?
 15 A. Yes, there was.
 16 Q. And is it true that St. Thomas
 17 Neurosurgical collaborated heavily with St. Thomas
 18 Health and St. Thomas Hospital in preparing that
 19 script?
 20 MR. SCHRAMEK: Objection to the form.
 21 Q. (By Mr. Nolan) You may answer.
 22 A. My understanding, they did.
 23 (Exhibit 44 was marked for
 24 identification.)
 25 Q. (By Mr. Nolan) Let me hand you an e-mail

Page 195

1 string that we'll make Exhibit 44, which is the
 2 STOPNC_3501, and you've seen this before, have you
 3 not?
 4 A. Yes.
 5 Q. All right. So this is an e-mail string
 6 that eventually -- well, it originally starts with
 7 Rebecca Climer, the chief communications and marketing
 8 officer with St. Thomas Health. Do you see that?
 9 A. Yes, I do.
 10 Q. Okay. And she is sending a script or a
 11 partial script to Scott Butler regarding anticipated
 12 phone calls; is that correct?
 13 A. Yes.
 14 Q. Okay. And then the next e-mail says --
 15 from Ms. Climer to Scott Butler and there's a copy to
 16 Dale Batchelor, who is the chief medical officer for
 17 St. Thomas Hospital. Do you see that?
 18 A. Yes, I do.
 19 Q. And then it says, "Had Berry review
 20 script." Is Berry a physician?
 21 A. I'm -- no, I don't --
 22 MR. GIDEON: Simple question.
 23 THE WITNESS: I don't know.
 24 MR. GIDEON: Is he a physician?
 25 THE WITNESS: No, not a physician I

Page 196

1 deal with.
 2 Q. (By Mr. Nolan) Okay. Do you know who
 3 Berry is?
 4 A. No, not right at this moment.
 5 Q. Okay. And so do you have any idea why the
 6 chief communications and marketing officer would be
 7 collaborating with Mr. Butler and someone named Berry
 8 on the script that should be used when calling
 9 patients?
 10 MR. SCHRAMEK: Objection to the form
 11 to the extent it calls for speculation.
 12 THE WITNESS: Mr. Butler was handling
 13 communications with the hospital and other
 14 entities while I handled the clinical
 15 portion with the Tennessee Department of
 16 Health.
 17 Q. (By Mr. Nolan) Okay. Well, apparently
 18 Berry made a suggestion. He said, "He would like to
 19 add the statement in case they" -- I assume referring
 20 to a patient -- "asks 'why are you calling,' it's okay
 21 to say there had been some reactions to the procedure
 22 and we're calling to check and see if you've had any
 23 reaction."
 24 Do you see that?
 25 A. Yes.

Page 197

Page 199

1 Q. Okay. And did your clinic actually use
 2 this script that apparently was influenced by Berry?
 3 A. Yes, we did.
 4 Q. And so let me give you a document which
 5 we'll make Exhibit No. 45, which begins at STOPNC_990
 6 and ask you if this appears to be the script that was
 7 used after this e-mail exchange between Ms. Climer and
 8 Mr. Butler.

9 (Exhibit 45 was marked for
 10 identification.)

11 THE WITNESS: This was the script we
 12 used.

13 Q. (By Mr. Nolan) Okay. All right. Do you
 14 know how many people had died by the time that you
 15 started using this script to call patients?

16 A. No, I do not, not right offhand.

17 Q. Do you know whether it was more than one?

18 A. I believe it was, but I cannot give you an
 19 answer -- I mean, a number.

20 Q. All right. And so when Mr. Butler
 21 forwarded this script to you and Dr. Culclasure, did
 22 you give him any pushback?

23 A. Pushback?

24 Q. Well, did you say, "Now, wait a minute.
 25 People have died of meningitis. If a patient asks us

1 of Health specifically say that to you?
 2 A. Yes, they did.
 3 Q. And who said that?
 4 A. I believe it was Dr. Kainer.
 5 Q. All right. When did she say it?
 6 A. I can't give you the date. It was before
 7 they went to the -- before they did their
 8 announcement.
 9 Q. Okay. How many times did she say that to
 10 you?
 11 A. I don't recall.
 12 Q. In what context did she say that to you?
 13 A. We're not to tell the patients that there
 14 is meningitis until we know what it is and where it's
 15 coming from until we have more answers.
 16 Q. Was this during a face-to-face meeting, a
 17 phone call, e-mail?
 18 A. I think all.
 19 Q. Say that again.
 20 A. I think all of the above.
 21 Q. All right.
 22 A. All that you mentioned.
 23 Q. So you're saying there's an e-mail from Dr.
 24 Kainer saying don't mention meningitis?
 25 A. I don't know. I'd have to go -- I don't

Page 198

Page 200

1 why are you calling, we should tell them the truth, we
 2 shouldn't tell them that some people have had a
 3 reaction. We should tell them the truth. They may
 4 have a life-threatening infection."

5 Did you say that to Mr. Butler when he
 6 forwarded this script to you?

7 A. We followed the guidelines that the
 8 Tennessee Department of Health set. They did not want
 9 us to go any further.

10 Q. Well, did you and Dr. Culclasure have any
 11 discussions along the lines of, "Look, I don't care
 12 what Berry thinks or the Tennessee Department of
 13 Health thinks. If a patient asks us a question, we're
 14 going to tell them the truth"?

15 A. We didn't know what was causing their
 16 infection.

17 Q. Did anyone at the Tennessee Department of
 18 Health tell you that if a patient asks why you are
 19 calling, you should tell them that there had been some
 20 reactions to the procedure?

21 A. I don't remember exactly what they -- if
 22 they said reactions to procedure or if that is from
 23 Ms. Climer. They just told us not to mention
 24 meningitis.

25 Q. Did anybody with the Tennessee Department

1 know.
 2 Q. Okay. Now, does Berry work for Dr. Kainer?
 3 A. I don't know who Berry is.
 4 Q. At the time that you began using this
 5 script, were you at all uncomfortable with the
 6 suggestion made by Berry and incorporated into the
 7 script that was used?
 8 A. This was a very difficult time. We were
 9 uncomfortable with everything going on.
 10 Q. So does that mean you were uncomfortable
 11 with responding to a question from a patient, why are
 12 you calling, with saying there had been some reactions
 13 to the procedure?
 14 A. I wasn't uncomfortable with that because
 15 that was all we knew at this time.
 16 Q. Did you make any of these calls yourself?
 17 A. I'm sure I did.
 18 Q. And did you have any patients ask why you
 19 were calling?
 20 A. I don't remember.
 21 Q. Let me hand you a photograph, if I could.
 22 I'm going to hand you a photograph we'll make Exhibit
 23 No. 56, which is STOPNC --
 24 MR. GIDEON: Don't do that again,
 25 George, please. This is 45. So it should

<p>1 be 46, not 56.</p> <p>2 MR. NOLAN: I'm sorry, I misspoke.</p> <p>3 MR. GIDEON: Oh, okay.</p> <p>4 MR. NOLAN: Thank you C.J. I appreciate that. 46.</p> <p>5 MR. GIDEON: Sure. You know the first sign of senile dementia is getting the numbers confused.</p> <p>6 MR. NOLAN: I've been demented for a long time now.</p> <p>7 MR. GIDEON: I know.</p> <p>8 (Exhibit 46 was marked for identification.)</p> <p>9 Q. (By Mr. Nolan) All right. 46.</p> <p>10 STOPNC_770. Tell us what's in this picture.</p> <p>11 A. This is our medication room where we store our medications.</p> <p>12 Q. Okay. That basically look the same as it was before the outbreak?</p> <p>13 A. Probably we -- when was this picture made?</p> <p>14 Q. I don't know. I was going to ask you the same question.</p> <p>15 A. I don't know.</p> <p>16 Q. All right. Is that basically what it looked like before the outbreak?</p>	<p>1 dexamethasone; correct?</p> <p>2 A. Correct.</p> <p>3 Q. All right. Let me hand you a picture we'll make Exhibit No. 48 and ask you to tell me what this is.</p> <p>4 MR. CLINE: What's the Bates, George?</p> <p>5 MR. NOLAN: 784.</p> <p>6 (Exhibit 48 was marked for identification.)</p> <p>7 THE WITNESS: This is in one of the procedure rooms. It's the cabinet where medication is stored in the procedure room.</p> <p>8 Q. (By Mr. Nolan) Okay. And so there's a -- there's a sign that says "Please use all of the Depo in this container before you open any more. Thanks."</p> <p>9 Do you know who wrote that?</p> <p>10 A. I believe Greta did, one of the -- my LPN.</p> <p>11 Q. Okay. Do you know why she put that there?</p> <p>12 A. This area -- this room only -- they would just stock it for a short period of time, and she was making sure that they -- to rotate our stock that they used what was in there before you brought more in.</p> <p>13 Q. All right. Let me hand you a photograph we'll make Exhibit No. 49, which is Document 785, and ask you if this is a close-up of the same sign?</p>
<p>1 Page 202</p> <p>2 MR. SCHRAMEK: Do we get a picture down here?</p> <p>3 THE WITNESS: Normally we don't have the medications stacked like that.</p> <p>4 Q. (By Mr. Nolan) All right.</p> <p>5 A. I mean...</p> <p>6 Q. If we look at this picture, does it -- it looks like there's some drawers where medications are stored; is that correct?</p> <p>7 A. That is correct.</p> <p>8 Q. And I think if we look down in the lower right-hand corner, we see the drawer for methylprednisolone. Do you see that?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Okay. All right. And let me hand you a picture we'll make Exhibit No. 47 and ask you -- and this is at STOPNC_773, and ask you if this is a close-up of the drawer with a -- where you, your clinic stored methylprednisolone?</p> <p>11 (Exhibit 47 was marked for identification.)</p> <p>12 THE WITNESS: Yes, it is.</p> <p>13 Q. (By Mr. Nolan) Okay. All right. And it looks like in the drawer above it, although it's somewhat cut off, that's where you kept some of the</p>	<p>1 Page 204</p> <p>2 (Exhibit 49 was marked for identification.)</p> <p>3 THE WITNESS: Yes.</p> <p>4 Q. (By Mr. Nolan) All right. Now let me hand you a picture we'll make Exhibit No. 50, which is Document No. 775 and this was produced by your lawyers. Tell us what this is.</p> <p>5 (Exhibit 50 was marked for identification.)</p> <p>6 THE WITNESS: It is a picture of -- I believe it's the drawer that hold -- that we store the medication in, the Depo-Medrol.</p> <p>7 Q. (By Mr. Nolan) Okay. So that -- would that appear to be a picture of the contents of the drawer that we see in Exhibit No. 47?</p> <p>8 A. I can only assume that it is.</p> <p>9 MR. GIDEON: No, look at Exhibit 47.</p> <p>10 THE WITNESS: Yeah.</p> <p>11 MR. GIDEON: Make sure you understand.</p> <p>12 THE WITNESS: He's asking that -- is it -- and I assume. I don't know.</p> <p>13 MR. GIDEON: You just tell him you don't know then.</p>

<p style="text-align: right;">Page 205</p> <p>1 (Exhibit 51 was marked for 2 identification.)</p> <p>3 Q. (By Mr. Nolan) Let me hand you an e-mail 4 that I'm going to make Exhibit No. 51. And it is 5 found -- I believe it's STOPNC_809 or 807. It's 6 unclear from this copy. And I'm going to ask you if 7 this is an e-mail that you received from Clint 8 Pharmaceuticals on October the 4th, 2012?</p> <p>9 A. That's what -- yes, that's what it says 10 here.</p> <p>11 Q. All right. And so after you received this 12 e-mail from Clint Pharmaceuticals, did you read it?</p> <p>13 A. At the time, I'm sure I did.</p> <p>14 Q. Now, do you see here about halfway down the 15 first paragraph beginning in the bold where it says, 16 "Compounded corticosteroids do not have FDA approval. 17 We have historically recommended that all 18 practitioners do not use unapproved compounded 19 steroids, especially when FDA-approved products are 20 commercially available. All products distributed by 21 Clint Pharmaceuticals are FDA approved and are not -- 22 are not implicated in this outbreak. FDA approved 23 corticosteroids have been and are still available 24 through Clint Pharmaceuticals."</p> <p>25 Have I read that correctly?</p>	<p style="text-align: right;">Page 207</p> <p>1 that Henry Schein would have sold it to you, but you 2 wouldn't have gotten a favorable price because you 3 were not part of a buying group that included that 4 vendor?</p> <p>5 A. That's correct, and I didn't have an 6 account with them.</p> <p>7 Q. So that is correct?</p> <p>8 A. I -- I'm assuming so.</p> <p>9 Q. And would the same be true for PSS?</p> <p>10 A. At the time, PSS was not sell -- did not 11 sell medications.</p> <p>12 Q. Okay.</p> <p>13 A. That came in later.</p> <p>14 Q. All right. And do you know when PSS began 15 selling medication?</p> <p>16 A. No, I do not.</p> <p>17 MR. HOFFMAN: If everyone on the 18 phone could mute their phones.</p> <p>19 MR. NOLAN: If everyone on the phone 20 could mute their phones, that would be 21 appreciated.</p> <p>22 MR. GIDEON: They're not listening at 23 all.</p> <p>24 (Exhibit 52 was marked for 25 identification.)</p>
<p style="text-align: right;">Page 206</p> <p>1 A. Yes.</p> <p>2 Q. Is there anything about what I've read that 3 you believe to be false or inaccurate?</p> <p>4 MR. GIDEON: Objection to the form.</p> <p>5 THE WITNESS: This is October of '12 6 and June of '11. They did not have the 7 supply.</p> <p>8 Q. (By Mr. Nolan) Well, we know in August 9 they were willing to send you 2,000 vials; right?</p> <p>10 A. But they had already -- they had told me 11 that there was a shortage.</p> <p>12 Q. Right. I understand that.</p> <p>13 A. Which means I couldn't guarantee that two 14 months down the line that they would not be out of 15 product.</p> <p>16 Q. At the time you found out about the 17 shortage, did you check with Henry Schein to see 18 whether they could supply MPA or Depo-Medrol to you?</p> <p>19 A. I checked with them at some point. I don't 20 know the exact date, but they were not a supplier for 21 us.</p> <p>22 Q. What does that mean?</p> <p>23 A. We were not on their the -- part of their 24 buying group or however that works.</p> <p>25 Q. And so would I be correct in understanding</p>	<p style="text-align: right;">Page 208</p> <p>1 Q. (By Mr. Nolan) Ms. Schamberg, let me hand 2 you an affidavit that you signed. We're going to make 3 it Exhibit No. 52. It's STOPNC_797. Do you remember 4 signing this affidavit?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And why did you sign this affidavit?</p> <p>7 A. Somebody told me to. I don't know why. I 8 don't remember why I was told to sign it.</p> <p>9 Q. Okay. Do you know who prepared it?</p> <p>10 A. Looks like the State of Tennessee.</p> <p>11 Q. The State of Tennessee prepared it?</p> <p>12 A. This says State of Tennessee, County of 13 Davidson.</p> <p>14 Q. Well, that might have to do with the 15 notary, but maybe not. I don't know.</p> <p>16 A. I don't -- I don't remember.</p> <p>17 MR. NOLAN: Why don't we take a short 18 break.</p> <p>19 MR. GIDEON: How long?</p> <p>20 MR. NOLAN: Ten minutes.</p> <p>21 MR. GIDEON: Okay. We'll be back at 22 4:00, then.</p> <p>23 VIDEOGRAPHER: This is the end of 24 Tape No. 4. We're off the record and the 25 time is 3:52 p.m.</p>

Page 209

1 (A recess was taken.)
 2 VIDEOGRAPHER: Here begins Tape No. 5
 3 in the deposition of Debra Schamberg.
 4 We're back on the record and the time is
 5 4:04 p.m.
 6 Q. (By Mr. Nolan) Ms. Schamberg, before you
 7 became the facilities director of St. Thomas
 8 Neurosurgical in 2009, how often were you involved in
 9 ordering medications?
 10 A. Rare.
 11 Q. Rarely?
 12 A. Rare.
 13 Q. All right. Did you have any experience
 14 with ordering medications before that?
 15 A. If medication was needed in the OR room, I
 16 would go and order medications for that.
 17 Q. So would I be correct in thinking that when
 18 you became facilities director, that was the first
 19 time you had ever held a job that required you to
 20 regularly order medications for any particular
 21 facility?
 22 A. No, when I was -- prior to nursing school,
 23 I worked for a group of orthopaedic surgeons and I
 24 ordered their medications.
 25 Q. And what group was that?

Page 210

1 A. It was called Suburban Orthopaedics.
 2 Q. Is that here in Nashville?
 3 A. It was in Donaldson.
 4 Q. Were you the one who approved which vendors
 5 would be used?
 6 A. I don't recall at that time. I don't know.
 7 Q. Okay. So when you worked for that group in
 8 Donaldson, did you actually evaluate medication
 9 suppliers?
 10 A. I don't recall.
 11 Q. Would it be fair for me to say that your
 12 job as facilities director at St. Thomas
 13 Neurosurgical, which started in 2009, is the first
 14 time you recall having a job that required you to
 15 select and order from medication suppliers?
 16 A. Order from suppliers that carried
 17 medications before.
 18 Q. I'm talking about ordering medications.
 19 A. Yes.
 20 Q. And just so we're clear, it's when you
 21 became facilities director in '09, that was the first
 22 time that you became one of the deciders, if we can
 23 use that -- that term -- as to from where medications
 24 would be purchased; is that correct?
 25 A. Correct.

Page 211

1 Q. All right. Can I get you to find
 2 Exhibit 30, which is the spreadsheet that our office
 3 prepared showing the 2011 purchases.
 4 Now, that's --
 5 MR. GIDEON: She doesn't have it yet.
 6 Q. (By Mr. Nolan) Do you have that exhibit in
 7 front of you?
 8 A. I do.
 9 Q. All right. Now, that -- that exhibit
 10 indicates that when you started buying from NECC, you
 11 started buying two milliliter vials on occasion from
 12 NECC; is that correct?
 13 A. That is correct.
 14 Q. And was that a new thing?
 15 A. Yes.
 16 Q. All right. And why -- why did you start
 17 doing that?
 18 A. Many times the doctor uses 120 to 180 on
 19 the injection. So instead of opening up two vials,
 20 you can use one.
 21 Q. Okay. Had that never happened before you
 22 started with NECC?
 23 A. It had never been offered.
 24 Q. Okay. So if a two milliliter vial was
 25 used, does that mean that that vial would be stuck

Page 212

1 more than once when treating a patient?
 2 A. No.
 3 Q. It does not mean that?
 4 A. No.
 5 Q. Okay. At any point did anyone at St.
 6 Thomas Neurosurgical ever stick a vial more than once
 7 when administering epidural steroid injections to
 8 patients?
 9 A. Yes.
 10 Q. And how often would that occur?
 11 A. For a short period of time, we were using
 12 the Omnipaque more than -- more than once.
 13 Q. Did you ever stick MPA vials more than
 14 once?
 15 A. Not that I'm aware of.
 16 Q. So is it your testimony that with the two
 17 milliliter vials of MPA, they would only be used on a
 18 single patient?
 19 A. That is correct.
 20 Q. Does St. Thomas Neurosurgical have any
 21 systems in place designed to monitor its patients for
 22 infections or problems?
 23 A. Yes. I send a -- I check with the doctors.
 24 And when I had more than one doctor there, I would
 25 send them monthly e-mails asking if there was any --

Page 213

1 if they had any issues, infections for the patients.
 2 Q. And so in other words, you would kind of
 3 take a census among the doctors who gave injections at
 4 St. Thomas Neurosurgical on a monthly basis to find
 5 out whether there were any problems being experienced
 6 by patients?
 7 A. Yes.
 8 Q. And was that a Joint Commission requirement
 9 or did you do that for some other reason?
 10 A. It -- I don't know if it's Joint Commission
 11 or a state requirement, but it is a...
 12 Q. And so would those statistics be kept then
 13 by St. Thomas Neurosurgical either in some sort of
 14 file?
 15 A. Yes.
 16 Q. And was there any uptick in -- in problems
 17 in, say, August of 2012?
 18 A. No.
 19 Q. So you didn't notice any sort of uptick in
 20 problems associated by -- experienced by patients
 21 before you got the call from Ms. Smith on September
 22 the 18th of 2012?
 23 A. No.
 24 Q. I think I asked you earlier about whether
 25 St. Thomas Neurosurgical had a quality improvement

Page 215

1 compensation?
 2 A. The same bonus as all other employees
 3 receive.
 4 Q. And what is your understanding of what
 5 factors determine the size of the bonus?
 6 A. That is determined by the physicians.
 7 Q. The fact that St. Thomas Neurosurgical had
 8 a written formulary, is that a -- is that a Joint
 9 Commission requirement?
 10 A. Yes.
 11 Q. Do you know why the Joint Commission
 12 requires a formulary?
 13 A. That -- why do they require anything that
 14 they say?
 15 Q. And who is in charge of making sure that
 16 St. Thomas Neurosurgical met Joint Commission
 17 requirements?
 18 A. That's my responsibility.
 19 Q. Did you ever talk with a pharmacist before
 20 sending the lists of names to NECC?
 21 MR. GIDEON: I can tell you now that
 22 as I instructed her earlier, any discussion
 23 you had as part of a quality improvement
 24 committee is privileged under Tennessee
 25 law. You're instructed not to share any of

Page 214

1 committee, and I believe you made reference to the
 2 medical executive committee.
 3 A. That is correct.
 4 Q. Is the quality improvement committee a
 5 subset of the medical executive committee or is it --
 6 are the members the same?
 7 A. We're a very small entity so we just kind
 8 of incorporate it all in together.
 9 Q. All right. So the same people -- the
 10 quality improvement committee and the medical
 11 executive committee have the same members; is that
 12 correct?
 13 A. Correct. Well, I take that back.
 14 Basically Dr. Culclasure and I are the quality
 15 improvement committee. If there's issues, we -- but
 16 we're a small spot facility, so it's...
 17 Q. Is -- I'm going to ask about your
 18 compensation. I'm not going to ask you how much
 19 you're paid, but is your compensation at all linked to
 20 how the clinic performs?
 21 A. No.
 22 Q. Is it all -- at all linked to the amount of
 23 profit or revenue generated by the clinic?
 24 A. No.
 25 Q. Is there any bonus component to your

Page 216

1 that information if in answering the
 2 question you would do so.
 3 Q. (By Mr. Nolan) And so in light of that
 4 objection, will you answer the question?
 5 A. No.
 6 Q. When was the first time that you
 7 participated in a Joint Commission survey?
 8 A. Since I have been in a hospital there's
 9 been Joint Commission.
 10 Q. Well, since -- let me limit the question.
 11 Since you've been working at St. Thomas Neurosurgical.
 12 A. There again, since -- I think we had our
 13 first one in 2001 or so. It's...
 14 Q. And so how many Joint Commission surveys
 15 have you participated in?
 16 A. In 2009 was the first one I led.
 17 Q. Okay. And then when was the next one?
 18 A. 2012.
 19 Q. And do you know specifically what the Joint
 20 Commission requirements are for a written formulary?
 21 A. Not off the top of my head.
 22 Q. And do you keep a copy of the rules and
 23 requirements of the Joint Commission for formularies?
 24 A. I have a Joint Commission standard book
 25 with their requirement. I do have a copy of that.

Page 217

1 Q. Do you keep that in your office?
 2 A. Yes, I do.
 3 Q. All right. I think when I was asking you
 4 about the -- Mario's explanation for the reason he
 5 needed the patient list, that being a Massachusetts
 6 Board of Pharmacy requirement, I think you said that
 7 you've run into other pharmacy laws which were unusual
 8 or something along those lines. Do you remember that
 9 part of your testimony? I'm not trying to
 10 mischaracterize it.

11 MR. GIDEON: Objection to the form.
 12 Q. (By Mr. Nolan) You can answer it.
 13 MR. GIDEON: What was the question?
 14 THE WITNESS: I don't know were there
 15 other pharmacy laws. Other requirements
 16 that the state and all require that I --
 17 that don't make sense sometimes.
 18 Q. (By Mr. Nolan) Since 2009, can you give us
 19 any other examples of pharmacy laws that you've run
 20 into that didn't make sense?
 21 A. My response on the other one were there
 22 were other laws that I said did not make sense, not
 23 necessarily pharmacy laws.
 24 Q. All right. Well, let's make the question
 25 broader, then, to include the other laws. Since 2009,

Page 219

1 THE WITNESS: No, not at that time
 2 period.
 3 Q. (By Mr. Nolan) So as we sit here today, is
 4 there anything that you wish you had done differently?
 5 MR. GIDEON: Didn't you just answer
 6 that?
 7 THE WITNESS: I did. Not for that
 8 time period.
 9 Q. (By Mr. Nolan) Which time period are you
 10 referring to?
 11 A. Up until September the 20th, 2012.
 12 MR. NOLAN: That's all I have.
 13 MR. GIDEON: Mr. Stranch said he was
 14 going to ask questions on behalf of the PSC
 15 when we did the introductions. Is that not
 16 correct?
 17 MR. STRANCH: I did say that, but
 18 I've been feeding mine to George and he's
 19 already covered all of it.
 20 MR. GIDEON: So you're not going to
 21 ask questions?
 22 MR. STRANCH: I'm not going to ask
 23 them at this point.
 24 MR. GIDEON: Just two have been
 25 identified for the PSC. I think the next

Page 218

1 what other laws have you run into in your job that
 2 didn't make sense to you?
 3 A. I -- my facility St. Thomas Outpatient
 4 could not share a waiting room with the practice.
 5 Now, it had to be a separate waiting room or it could
 6 be the same waiting room with a firewall in between
 7 it.
 8 Q. Okay. All right. That's one example. Any
 9 others?
 10 A. That one sticks out the most at this
 11 moment.
 12 Q. The Joint Commission survey that happened
 13 in 2012, when in 2012 did that occur?
 14 A. I don't know the exact date. It was in the
 15 late spring, early summer.
 16 Q. And does the Joint Commission provide you
 17 or the clinic with results of its survey?
 18 A. Yes, they do.
 19 Q. And obviously that's a document you keep on
 20 file?
 21 A. Yes, it is.
 22 Q. In terms of your decisions regarding and
 23 interactions with NECC, is there anything that you
 24 wish you had done differently?
 25 MR. GIDEON: Objection to the form.

Page 220

1 person to speak is the attorney for the St.
 2 Thomas entities. It may be -- I don't know
 3 how loud you are. You want to move down
 4 here?
 5 MR. SCHRAMEK: I need a microphone
 6 and to be by the witness.
 7 MR. NOLAN: I'm happy to trade places
 8 with you.
 9 MR. GIDEON: If it's not too
 10 inconvenient for you, it might be easier
 11 for him.
 12 How much time have we actually been
 13 involved in the deposition of this lady
 14 today?
 15 VIDEOGRAPHER: Five hours and 29
 16 minutes.
 17 MR. GIDEON: Okay. As of right now?
 18 VIDEOGRAPHER: It's still running, so
 19 that is an approximation.
 20 MR. GIDEON: I understand. But as of
 21 now, five hours and 29 minutes?
 22 VIDEOGRAPHER: Yes, sir.
 23 EXAMINATION
 24 BY MR. SCHRAMEK:
 25 Q. Good almost evening, Ms. Schamberg. How

Page 221

1 are you? Is it Schomberg or Schamberg?
 2 A. Schamberg. Depends on what part of the
 3 country you're from.
 4 Q. I hear you. As a Schramek, I can
 5 understand that. I represent, you may have heard
 6 earlier this morning, St. Thomas Hospital, St. Thomas
 7 Health and the St. Thomas network. Do you understand
 8 that?
 9 A. Yes, I do.
 10 Q. And I refer to them as the St. Thomas
 11 entities because that's how we've been doing all of
 12 our briefing in the MDL, the judge is familiar with
 13 that terminology. And so if I use that terminology,
 14 will you understand I'm talking about those three
 15 entities?
 16 A. Yes.
 17 Q. Could you take a quick look back at
 18 Exhibit 24, which was the name tag exhibit.
 19 MR. GIDEON: It's back here, Debbie.
 20 It's right here.
 21 Q. (By Mr. Schramek) And I want to start at
 22 what's been Bates labeled 501, which is your name tag.
 23 Now, throughout this deposition, the plaintiffs'
 24 counsel was asking you to -- he's been using the term
 25 "St. Thomas Neurosurgical" and asked you that whenever

Page 223

1 your daily business; right?
 2 A. Correct.
 3 Q. So I want to talk a little bit about STOPNC
 4 and Howell Allen Clinic and the St. Thomas entities;
 5 all right?
 6 A. Okay.
 7 Q. I'd like to start, you mentioned earlier
 8 that the physicians determined your bonus; right?
 9 A. Correct.
 10 Q. The physicians, who are the physicians
 11 you're talking about?
 12 A. The Howell Allen Clinic physicians.
 13 Q. And Howell Allen Clinic, how did that get
 14 its name, do you know?
 15 A. From Dr. Howell and Dr. Allen.
 16 Q. Okay. So Dr. Howell, Dr. Allen got
 17 together and formed a clinic of doctors or an
 18 association of doctors known as the Howell Allen
 19 Clinic?
 20 MR. REHNQUIST: Objection.
 21 Q. (By Mr. Schramek) Is that right?
 22 MR. REHNQUIST: Objection.
 23 THE WITNESS: They were neurological
 24 surgeons and they changed their name to
 25 Howell Allen Clinic.

Page 222

1 he talked about that, you would understand that meant
 2 St. Thomas -- St. Thomas outpatient neurological
 3 center; right?
 4 A. Neurosurgical Center.
 5 Q. Neurosurgical Center. Can you tell me what
 6 it actually says on your name tag with respect to the
 7 name of your facility you were working at.
 8 A. It says Howell Allen Clinic.
 9 Q. All right. And then as far as your
 10 director position, how is that explained on your name
 11 tag?
 12 A. It's STOPNC is the -- but that's St. Thomas
 13 Outpatient Neurosurgical Center.
 14 Q. Sure. It's an acronym; right?
 15 A. Correct.
 16 Q. STOPNC. And that's the acronym we've been
 17 using for the Court in all of our filings and it's an
 18 acronym that's, in fact, on your name tag as the
 19 director of STOPNC; right?
 20 A. That's correct.
 21 Q. And is that an acronym that's used during
 22 the practice?
 23 A. Yes.
 24 Q. So it's not something that was created by
 25 lawyers today. It was actually something you used in

Page 224

1 Q. (By Mr. Schramek) All right. And with
 2 respect to the other name tags we looked at, if you
 3 want to start and you flip through those, other
 4 than -- how do you said her name, DeZwaan?
 5 A. DeZwaan.
 6 Q. Other than Ms. DeZwaan, can you look
 7 through these and tell me what does the top of
 8 everyone else's name tag at STOPNC say.
 9 A. The top line on all say Howell Allen
 10 Clinic.
 11 Q. And I believe earlier we were talking about
 12 how Ms. DeZwaan, she would substitute sometimes, sit
 13 in for the receptionist. Is that what you said?
 14 A. Yes.
 15 Q. Who, in fact, is the normal receptionist at
 16 STOPNC?
 17 A. Dot Pemberton.
 18 Q. And the Dot Pemberton that's on Page
 19 STOPNC_499, is that who you're referring to?
 20 A. Yes.
 21 Q. And what does the top of her name tag say?
 22 A. Howell Allen Clinic.
 23 Q. And what does it say on the second line of
 24 her name tag?
 25 A. The Center for Spinal Surgery.

Page 225

1 Q. So the normal receptionist at STOPNC does
 2 not even have St. Thomas anywhere on her name tag;
 3 right?

4 MR. REHNQUIST: Objection, leading.

5 Q. (By Mr. Schramek) You can answer.

6 A. No, she does not have it. I will say
 7 that's an old name tag.

8 Q. That's right, because that was -- the old
 9 name was STOPNC; right?

10 MR. REHNQUIST: Objection.

11 THE WITNESS: No.

12 Q. (By Mr. Schramek) Okay. Then what does
 13 that refer to, do you know, The Center for?

14 A. Center for Spinal Surgery, CSS, that's
 15 their -- the hospital portion.

16 Q. Okay. Gotcha. And then on the -- some of
 17 the others, Howell Allen Clinic, it lists their titles
 18 at the bottom of what they do; right?

19 A. Correct.

20 Q. And who actually did the injections at
 21 STOPNC of MPA? Was it an anesthesiologist?

22 A. Yes.

23 Q. And can you just give me the names.

24 A. Dr. John Culclasure, Dr. Rachel Rome, Dr.
 25 Steve Dickerson, Dr. Tito Carrero, Dr. Tim Arney was

Page 227

1 Q. So is it fair to say that almost
 2 100 percent -- I think you said there were five;
 3 right?

4 A. Well, I did not have a number. I don't --
 5 very few. So we're in the 99 percentile.

6 Q. So 99 percent of the patients, before they
 7 ever get to STOPNC, they've started at Howell Allen;
 8 correct?

9 A. That is correct.

10 Q. They've gone to Howell Allen to get
 11 treatment; right?

12 MR. REHNQUIST: Objection.

13 Q. (By Mr. Schramek) Correct?

14 A. Correct.

15 Q. Howell Allen Clinic refers them to go get
 16 their injections at STOPNC?

17 MR. REHNQUIST: Objection.

18 THE WITNESS: They refer them to go
 19 get injections. We do a large portion of
 20 those for them.

21 Q. (By Mr. Schramek) And when they get to
 22 STOPNC, they're injected by a doctor who has Howell
 23 Allen Clinic at the top of their name tag; right?

24 A. Not necessarily.

25 Q. Well, like Dr. Culclasure could do it?

Page 226

Page 228

1 there for -- I don't know when his last -- when he
 2 last was there. He -- he stopped coming quite a while
 3 before the others -- before the incident.

4 Q. For the record, Dr. Culclasure's name tag
 5 is STOPNC_502; correct?

6 A. Correct.

7 Q. And his also says at the top Howell Allen
 8 Clinic; right?

9 A. Correct.

10 Q. And all the doctors who actually were doing
 11 injections that you just told me about, they're all
 12 Howell Allen employees; correct?

13 A. No.

14 Q. Or they work for Howell Allen?

15 A. No.

16 Q. What is their relationship to Howell Allen?

17 A. No relationship to Howell Allen.

18 Q. Okay. And you said Dr. Culclasure, he was
 19 the -- he sits on the medical committee?

20 A. Yes, he does.

21 Q. Executive committee. I believe you said
 22 almost all of the Howell Allen Clinic's -- all of the
 23 patients that end up at STOPNC, nearly all of them are
 24 referred by Howell Allen Clinic; is that correct?

25 A. That is correct.

1 A. Dr. Culclasure would have Howell Allen
 2 Clinic on it.

3 Q. But they started and it was their intent to
 4 go to Howell Allen Clinic for their medical issues;
 5 correct?

6 MR. REHNQUIST: Objection.

7 Q. (By Mr. Schramek) Patients.

8 MR. STRANCH: Object to the form.

9 THE WITNESS: You'll have to
 10 rephrase. I'm --

11 Q. (By Mr. Schramek) Sure. They started
 12 their --

13 MR. GIDEON: Just a second. When
 14 these other people object, just let them
 15 finish, but you'll still answer the
 16 question unless you get some instructions
 17 not to. If the objections make you forget
 18 the question, it's okay to say, "I'm sorry,
 19 I've forgotten the question."

20 THE WITNESS: Well, I did.

21 MR. GIDEON: Yeah. Go ahead.

22 Q. (By Mr. Schramek) I was just saying that
 23 99 percent of the patients that end up at STOPNC
 24 started their search for medical services at a Howell
 25 Allen Clinic. Is that fair?

Page 229

1 MR. STRANCH: Objection.
 2 THE WITNESS: That is fair to say.
 3 Q. (By Mr. Schramek) And I'd like to refer
 4 you to what I'm going to mark as Exhibit 53.
 5 MR. GIDEON: Let me see the Bates
 6 numbers.
 7 Q. (By Mr. Schramek) They are Bates
 8 STOPNC_298 and 300.
 9 MR. REHNQUIST: I'm sorry, what was
 10 the exhibit number?
 11 MR. SCHRAMEK: It's 53 according to
 12 the -- the tags. That was the next one.
 13 MR. REHNQUIST: Thank you.
 14 Q. (By Mr. Schramek) Ms. Schamberg, do you
 15 recognize this policy?
 16 A. Yes, I do.
 17 Q. First of all, we've looked at a couple of
 18 documents today that bear a similar resemblance with
 19 respect to policies; isn't that right?
 20 A. Yes, we have.
 21 Q. And this -- this format, what we see as
 22 Exhibit 53, this is the format that was used by STOPNC
 23 with respect to promulgating their formal policies; is
 24 that fair?
 25 (Exhibit 53 was marked for

Page 231

1 patient harm while the medication is in the control of
 2 the healthcare professional, patient or consumer."
 3 A. That is what it says.
 4 Q. Did I read that correctly?
 5 So that's what this policy is talking
 6 about; right?
 7 A. Correct.
 8 MR. REHNQUIST: Objection.
 9 Q. (By Mr. Schramek) And if we go to the last
 10 page on reporting, it says that nursing and pharmacy
 11 will report medication errors to the MEC for their
 12 review; correct?
 13 A. Correct.
 14 Q. And the MEC we talked about earlier; right?
 15 The MEC is the medical executive committee; right?
 16 A. That is correct.
 17 Q. The medical executive committee is -- who
 18 are the four persons on it?
 19 A. Dr. Jason Hubbard, Scott Butler, Shreka
 20 Rogers and Christy Ebert.
 21 Q. And no one on the medical executive
 22 committee is employed by any of the St. Thomas
 23 entities; correct?
 24 MR. REHNQUIST: Objection.
 25 THE WITNESS: That is correct.

Page 230

1 identification.)
 2 MR. REHNQUIST: Objection.
 3 THE WITNESS: Yes.
 4 Q. (By Mr. Schramek) And these -- the one
 5 we're looking at here is called medication errors.
 6 A. That is correct.
 7 Q. And you're familiar with this policy?
 8 A. Sort of at the moment.
 9 Q. Yeah. And it says at the top its purpose
 10 is to prevent, detect and resolve drug-related
 11 problems that can result in patient harm; correct?
 12 A. Correct.
 13 Q. And when we look at the definition of a
 14 medication error, it talks about medication errors
 15 being preventable. Any preventable event that could
 16 lead or cause to inappropriate patient use or
 17 medication -- or patient harm; right?
 18 MR. GIDEON: I object to the form.
 19 That's not an accurate rendition of the
 20 sentence you just referred to.
 21 MR. SCHRAMEK: Sure. Let me re-read
 22 it.
 23 Q. (By Mr. Schramek) The first sentence says,
 24 "A medication error is any preventable event that may
 25 cause or lead to any inappropriate medication use or

Page 232

1 Q. (By Mr. Schramek) And you as the
 2 director -- facilities director, this is one of the
 3 policies that you also are in charge of overseeing;
 4 right?
 5 MR. REHNQUIST: Objection.
 6 THE WITNESS: Correct.
 7 Q. (By Mr. Schramek) And, in fact, if we look
 8 at the top of Page STOPNC_300, it says, "The medical
 9 staff, in collaboration with the nursing and other
 10 staff as appropriate, shall periodically assess its
 11 definition of a significant medication error and the
 12 mechanism's effectiveness to detect significant
 13 medication errors."
 14 Did I read that correctly?
 15 A. You did.
 16 Q. And with respect to this policy, this is a
 17 policy through you and the MEC that is aimed at
 18 resolving, addressing medication errors; fair?
 19 MR. REHNQUIST: Objection.
 20 MR. STRANCH: Objection to the form.
 21 THE WITNESS: Yes.
 22 Q. (By Mr. Schramek) And is this a policy
 23 that you followed during your work at STOPNC as the
 24 facility's director?
 25 A. This is the policy we would follow.

Page 233

1 Q. And I'd like to next point you to another
 2 policy, Exhibit 54, which has a Bates label STOPNC_256
 3 to 257. Just two pages. Do you recognize this
 4 document?

5 (Exhibit 54 was marked for
 6 identification.)

7 THE WITNESS: Yes, I do.

8 Q. (By Mr. Schramek) And what is it?

9 A. It's the St. Thomas Outpatient
 10 Neurosurgical Center infection prevention and control
 11 plan for the year 2012.

12 Q. Could you read into the record the first
 13 sentence of the overview of this control plan.

14 A. "St. Thomas Outpatient Neurosurgical Center
 15 is an ambulatory care center that is part of the
 16 Howell Allen Clinic, a specialty clinic treating
 17 disorders of the brain and spine."

18 Q. And is that a true statement?

19 A. Yes.

20 Q. And in this overview, it next says -- in
 21 the middle, it says, "The medical executive committee
 22 oversees and serves as an advisory board to the
 23 center," and it lists four people. I believe those
 24 are the people you just mentioned a minute ago;
 25 correct?

Page 234

1 A. No. The -- the president has changed.

2 Q. Okay. But at the time that this policy was
 3 put in place, the president was Steven Abram?

4 A. Yes.

5 Q. And at the time of the outbreak, was the
 6 president Steven Abram?

7 A. Yes.

8 Q. So at the time of the outbreak in 2012,
 9 leading up to it, this accurately reflects --
 10 STOPNC_256 accurately reflects the composition of the
 11 MEC?

12 A. Yes. Christy Ebert was -- she attended the
 13 meetings, but really had no -- that was to give her
 14 report for the imaging office.

15 Q. Okay. And if we look at infection
 16 prevention control plan evaluation, I'm going to --
 17 I'm sure you're tired by now, so I'm going to read it
 18 and you can tell me if it's accurate.

19 A. Okay.

20 Q. "Infection prevention surveillance and
 21 daily management of infection prevention activities is
 22 the responsibility of the facility director."

23 Right?

24 A. That is correct.

25 Q. And that would be you; correct?

Page 235

1 A. Correct.

2 Q. Towards the beginning of this deposition,
 3 you made a statement, "St. Thomas Hospital had nothing
 4 to do with my job."

5 Do you remember that?

6 A. Yes.

7 Q. All right. And can you just explain that,
 8 what you meant by that.

9 A. I'm not employed by St. Thomas Hospital.

10 Q. You're employed by Howell Allen Clinic?

11 A. That is correct.

12 Q. They're the ones that pay your bonuses;
 13 right? If you get one. I hear you.

14 A. If I get one.

15 Q. We all always are hoping for the best;
 16 right?

17 And Howell Allen Clinic, again, is the one
 18 that is referring 99 percent of the patients to
 19 STOPNC; correct?

20 A. That is correct.

21 Q. And if we turn to Exhibit 43, which you
 22 actually -- we don't -- you don't have to look at it
 23 probably. It's simply the formulary change approval
 24 sheet. Do you remember that exhibit, 43?

25 A. Yes.

Page 236

1 Q. That document reflects that when there is a
 2 change to the formulary, it goes all the way up to the
 3 board of directors; right?

4 A. That is correct.

5 Q. Now, plaintiffs' counsel earlier today was
 6 discussing this issue with you about whether or not
 7 the use of a compounded form of MPA was a change to
 8 the formulary. Remember that back and forth exchange?

9 A. Yes.

10 Q. Putting that issue aside, regardless of
 11 that fight, is it true that, in fact, the use of NECC,
 12 the use of the compounded MPA, that never was raised
 13 to the board of directors pursuant to this Exhibit 43
 14 process?

15 A. Re --

16 Q. Let me rephrase.

17 A. Please.

18 Q. It's your position there was no change to
 19 the formulary when you ordered from NECC; right?

20 A. That is correct.

21 Q. And because there was no change to the
 22 formulary, there was never a formulary change raised
 23 to the board of directors?

24 A. That is correct.

25 Q. And that was a decision that was made by

1 you as facilities director in consultation with
 2 Dr. Culclasure?
 3 A. That is correct.
 4 Q. And I think you've said this a few parts
 5 throughout the day, but I want to be clear. None of
 6 the St. Thomas entities had anything to do with the
 7 decision of STOPNC to begin acquiring product from
 8 NECC?
 9 A. That is correct.
 10 MR. STRANCH: Objection to form.
 11 Q. (By Mr. Schramek) If we could go to
 12 Exhibit 39 real quickly. It's that -- that kind of
 13 big exhibit full of e-mails and invoices. Do you have
 14 it in front of you?
 15 A. Yes.
 16 MR. REHNQUIST: I'm sorry, can you
 17 say that number again.
 18 MR. SCHRAMEK: Exhibit 39, Bates
 19 STOPNC_2386 is the cover.
 20 Q. (By Mr. Schramek) The top e-mail of that
 21 packet was from a -- from you to Marlesa Allen --
 22 Marlese Allen; correct?
 23 A. Marlese, yes, sir.
 24 Q. And I think later in the -- in the
 25 deposition, we learned that she's the director of HR

1 A. That is why that question was directed at
 2 her.
 3 Q. "In other words, is there some limitation I
 4 need to know about that would prevent me from ordering
 5 from certain vendors?"
 6 A. Correct.
 7 Q. And I don't think we saw a response to
 8 this. Did Ms. Allen provide any limitations to you?
 9 A. Not that I know -- that I'm aware of.
 10 Q. And you reached out to your employer,
 11 Howell Allen Clinic, as the person who you believe
 12 would make the decision as to whether or not there
 13 were any restrictions on which vendors you could use
 14 or not use; correct?
 15 A. That is correct.
 16 Q. And if we turn to -- in that packet, I'm
 17 just going to go through a couple more pages. It's
 18 Page 4 of the packet, Bates STOPNC_5409. That e-mail
 19 at the top from Debra -- from you to -- is her name
 20 Bobbi Doty?
 21 A. Correct.
 22 Q. You e-mailed her to say, "We may start
 23 ordering from Clint Pharma. They are local and I
 24 think will give us better money" -- a better deal;
 25 right?

1 at Howell Allen Clinic; right?
 2 A. That is correct.
 3 Q. And so she's also employed by Howell Allen;
 4 correct?
 5 A. That is correct.
 6 Q. And I want to read that first sentence to
 7 you. It says, quote, Do I have to use certain vendors
 8 for ordering? I would like to do some price
 9 comparisons with other vendors other than Cardinal,
 10 period, closed quote.
 11 Did I read those first two sentences
 12 correctly?
 13 A. Yes, sir, you did.
 14 Q. And is it fair to say this e-mail reflects
 15 the fact that you, as facilities director, was
 16 e-mailing the Howell Allen HR director asking her if
 17 you had any sort of restrictions on which vendor to
 18 order from?
 19 MR. REHNQUIST: Objection to the
 20 form, leading.
 21 MR. STRANCH: Objection.
 22 THE WITNESS: I was not e-mailing her
 23 as the HR person. She's also the accounts
 24 payable.
 25 Q. (By Mr. Schramek) All right.

1 A. Yes.
 2 Q. Ms. Doty is also with Howell Allen Clinic;
 3 right?
 4 A. That is correct.
 5 Q. And employed by Howell Allen Clinic;
 6 correct?
 7 A. Yes.
 8 Q. In fact, if we look at the bottom of that
 9 e-mail at 5409, you notice a lot of times it just says
 10 the name of the person and doesn't give their e-mail
 11 address? That's a normal thing Outlook does when you
 12 print it; right?
 13 But at the bottom there, we have your
 14 e-mail signature, and could you, for the record, tell
 15 us, what is your e-mail address?
 16 A. dschamberg@howellallen.com.
 17 Q. I think you can put that aside. If you
 18 would just look back at Exhibit 41 next, which is the
 19 formulary for STOPNC.
 20 A. 41 is not formulary. 40.
 21 Q. Oh, all right. Then I have 41 written on
 22 mine. So STOPNC_533?
 23 A. Yes.
 24 Q. STOPNC_533, Exhibit 40, I think you earlier
 25 said, quote, We're a very small entity, closed quote.

Page 241

1 Do you remember saying that?
 2 A. Yes.
 3 Q. And that's reflected by the fact that you
 4 have a very small formulary; right?
 5 A. Correct.
 6 MR. REHNQUIST: Objection.
 7 Q. (By Mr. Schramek) Is it fair to say
 8 that -- can you tell me what is the relationship, if
 9 any, between the STOPNC formulary on Exhibit 40 and,
 10 for example, St. Thomas Hospital's formulary.
 11 MR. STRANCH: Objection, foundation.
 12 THE WITNESS: That I couldn't -- you
 13 know, I don't think that would even be
 14 close, but I can't -- I don't know what's
 15 all on St. Thomas's formulary.
 16 Q. (By Mr. Schramek) Have you ever seen the
 17 formulary?
 18 A. No.
 19 Q. In connection with your work in STOPNC, did
 20 you ever have any interaction with the formulary?
 21 A. For St. Thomas Hospital?
 22 MR. STRANCH: Objection.
 23 Q. (By Mr. Schramek) Hospital.
 24 A. No.
 25 Q. Do you personally -- do you believe that

Page 243

1 Q. (By Mr. Schramek) The St. Thomas Medical
 2 Plaza like most office buildings rents to tenants;
 3 right?
 4 A. Correct.
 5 MR. STRANCH: Objection.
 6 Q. (By Mr. Schramek) Can you tell me just for
 7 the record -- I mean, you work there every day. Can
 8 you tell me some of the other sorts of health-related
 9 doctors' office clinics. What else is in that medical
 10 plaza?
 11 A. TOA, Tennessee Orthopaedic Alliance is in
 12 that plaza.
 13 Q. Let's stop there. Tennessee Orthopaedic
 14 Alliance, what is that?
 15 A. Orthopaedics.
 16 Q. It's --
 17 A. It's a doctors' office. I mean, it's...
 18 Q. An orthopaedic doctors' office?
 19 A. Yes.
 20 Q. All right. What else?
 21 A. Let's see. Southern Joint, which recently
 22 left the -- that building, but they were -- they were
 23 a big orthopaedic clinic.
 24 Q. Ortho clinic. Some other things?
 25 A. I know there's Dr. Schwaber who does ENT

Page 242

1 the St. Thomas Hospital formulary has anything to do
 2 with STOPNC?
 3 MR. STRANCH: Objection.
 4 MR. NOLAN: Objection to the form.
 5 THE WITNESS: No.
 6 Q. (By Mr. Schramek) And it doesn't appear
 7 that your formulary, in fact, changed since 2007; is
 8 that right?
 9 A. At that time.
 10 Q. And just so the record's clear, at the
 11 bottom of these policies, it says what the date
 12 written was, the dates they were reviewed, and then
 13 the dates they were revised; correct?
 14 A. Correct.
 15 Q. When you want to determine whether a policy
 16 has changed, that's what you look at; right?
 17 A. Yes.
 18 Q. We had some talk about what's referred to
 19 as the St. Thomas -- I believe the Medical Plaza. Is
 20 that the right term for it?
 21 A. Yes.
 22 Q. And that's the office building essentially
 23 in which STOPNC rents space?
 24 A. Correct.
 25 MR. NOLAN: Objection to the form.

Page 244

1 and is in that facility. There's multiple doctors and
 2 also the SurgiCare.
 3 Q. And what is SurgiCare?
 4 A. It's an outpatient surgery center.
 5 Q. All right. And in your about -- what was
 6 it, 30 years' experience as a nurse?
 7 A. Yes.
 8 Q. You used to work in an OR; right?
 9 A. Yes.
 10 Q. Which one?
 11 A. I worked at West Side, Parkview, which
 12 became Centennial.
 13 Q. All right. In your 30 years of experience
 14 as an RN, as someone who's worked in hospital ORs, is
 15 it fairly common to have an office building next to a
 16 hospital in which other health service providers can
 17 rent space?
 18 MR. NOLAN: Objection to the form.
 19 THE WITNESS: Yes.
 20 Q. (By Mr. Schramek) And that's because
 21 doctors and other clinics and providers, it's good to
 22 be near the hospital because a lot of times when
 23 people are discharged, they need to continue getting
 24 services. That's one example; right?
 25 MR. REHNQUIST: Objection, leading,

Page 245

Page 247

1 foundation.

2 MR. STRANCH: Objection.

3 THE WITNESS: Yes.

4 Q. (By Mr. Schramek) What other reasons in
5 your 30 years' experience have you noticed why it is
6 there are medical centers near hospitals?

7 MR. REHNQUIST: Objection,
8 foundation.

9 THE WITNESS: For the physician to
10 come to the OR or to the hospital, a short
11 distance from his clinic.

12 Q. (By Mr. Schramek) You want the best
13 doctors to have privileges at the hospital to help
14 people --

15 MR. NOLAN: Objection.

16 MR. STRANCH: Objection.

17 Q. (By Mr. Schramek) -- in emergencies;
18 right?

19 A. Yes.

20 Q. And you want them to be able to do their
21 own businesses nearby so they'll be near the hospital
22 if need be; right?

23 MR. REHNQUIST: Objection.

24 MR. STRANCH: Objection.

25 THE WITNESS: Yes.

1 A. No.

2 Q. I just have a few questions and I hope to
3 get through this as quick as I can.

4 A. Okay.

5 Q. To what other clinics does Howell Allen
6 refer patients for steroid injections besides STOPNC?

7 A. Depending on the location of where the
8 patient lives, they will refer them to -- to Bowling
9 Green or Crossville. There's several places that they
10 will -- especially if the patient lives out of town.
11 And then they also can refer to Premier Radiology. I
12 do not know all of the places that they refer them to,
13 but they do refer to other places.

14 Q. Do you know if the majority of Howell Allen
15 referrals for steroid injections go to STOPNC?

16 A. I believe they do, sir.

17 Q. Do you know if 75 percent of them do?

18 A. Probably within that range.

19 Q. 75 percent is a reasonable ballpark
20 estimate?

21 A. Yes.

22 Q. You were asked questions by Mr. Volan [sic]
23 about certain FDA and CDC reports. Do you remember
24 those questions?

25 A. Not right off the -- no. It was a long

Page 246

Page 248

1 Q. (By Mr. Schramek) Is there anything at all
2 uncommon about the St. Thomas Plaza -- Medical Center
3 Plaza and the other office buildings next to
4 hospitals, in your experience?

5 MR. REHNQUIST: Objection to form.

6 MR. STRANCH: Objection to form.

7 MR. NOLAN: Objection to form.

8 THE WITNESS: No.

9 MR. SCHRAMEK: Thank you for your
10 time.

11 MR. GIDEON: Hey, Daniel, are you
12 going to ask any questions.

13 MR. CLAYTON: No.

14 MR. GIDEON: You look like you're
15 right on the edge there.

16 MR. CLAYTON: I'm too nervous here.

17 I can't.

18 EXAMINATION

19 BY MR. REHNQUIST:

20 Q. Good afternoon, Ms. Schamborg. My name is
21 Jim Rehnquist. We haven't met before, have we?

22 A. Not that I recall, sir.

23 Q. I represent a company in this case called
24 UniFirst Corporation. Have you ever heard of
25 UniFirst?

1 time ago.

2 Q. You testified -- I believe you testified
3 that there were certain reports about compounding
4 pharmacies that were issued by the FDA and the CDC,
5 and you testified that you -- that you were not
6 familiar with those. Do you remember that?

7 A. That was earlier today, but I -- I was not
8 familiar with some of the things on the compounding.

9 Q. What publications does STOPNC receive
10 regarding its business? Newspapers, magazines,
11 periodicals. What does STOPNC receive to keep up to
12 date?

13 A. We receive a quarterly journal on new
14 medications or medications. It's the physicians
15 assistant medication guide.

16 Q. Your best recall of the name is that it's
17 the physicians assistant medication guide?

18 A. MP -- it's -- physicians -- I do not know.
19 I don't remember the exact name of this publication.

20 Q. Do you know who publishes it?

21 A. No.

22 Q. It comes quarterly?

23 A. Yes, sir.

24 Q. What other publications does STOPNC
25 receive?

<p style="text-align: right;">Page 249</p> <p>1 A. Are you talking just general magazines? 2 Q. No, putting aside Highlights and Newsweek 3 and stuff like that. 4 A. Okay. 5 Q. What other trade publications or 6 periodicals does STOPNC receive? 7 A. I receive Infection Control Magazine. 8 Q. That's the name of it, Infection Control 9 Magazine? 10 A. Infection Control. 11 Q. Who publishes that? 12 A. That's a -- an infection -- I do not know 13 the publisher, but it's an infection control, OR -- I 14 get an outpatient OR magazine. Dr. Culclasure 15 receives -- I think it's called clinical advisor or 16 something. It's another publication. It's a medical 17 publication. And then I personally get the AORN 18 journal. 19 Q. So the AORN? 20 A. Association of Perioperative Room Nurses. 21 Q. Do you know of any other publications that 22 Dr. Culclasure receives besides the one you spoke 23 about? 24 A. No, I don't. I don't know what he 25 receives.</p>	<p style="text-align: right;">Page 251</p> <p>1 Did you make a decision as to what you were going to 2 receive? 3 A. Yes. 4 Q. You get anything from the CDC on a regular 5 basis? 6 A. Yes. 7 Q. Do you know what type -- how often do you 8 get e-mail notifications from the CDC? 9 A. At this time period, just about daily. 10 Q. Well, let's go back before the outbreak. 11 A. Okay. No, I was not on the CDC, but I did 12 receive all the others as well as -- let's see -- 13 updates from the state of Tennessee for -- I guess for 14 TOSHA. I received updates on TOSHA. 15 Q. Is that T-O-S-H-A? 16 A. Correct. 17 Q. Do you know what that stands for? 18 A. Tennessee Occupational -- it's OSHA. 19 MR. GIDEON: Tennessee Occupational 20 Safety. 21 THE WITNESS: Yes. 22 Q. (By Mr. Rehnquist) And do you read these 23 e-mail notifications when you get them? 24 A. I skim them. 25 Q. Are there sometimes documents attached to</p>
<p style="text-align: right;">Page 250</p> <p>1 Q. Apart from the ones that you've testified 2 about so far, are you aware of any other publications 3 that the office receives? 4 A. Now, I get -- and I get e-mails from 5 instead of -- instead of written copies, I will get 6 e-mail -- receive the literature through the e-mail. 7 Q. Just sort of regular e-mails 8 notifications -- 9 A. Yes. 10 Q. -- whether you ask for them or not? 11 A. Yes. 12 Q. And who do you get those from? 13 A. The FDA on drug recalls, infection control. 14 Q. Is that from the FDA as well, infection 15 control? 16 A. No, it's from a different -- I can't -- top 17 of my head, can't think of them right now. There's 18 several that I get through the -- 19 MR. GIDEON: Through the e-mail. 20 THE WITNESS: Through the e-mail. 21 Q. (By Mr. Rehnquist) Are you on certain 22 lists as far as you understand on the computer where 23 you get these things automatically? 24 A. Yes. 25 Q. And did you choose to be on those lists?</p>	<p style="text-align: right;">Page 252</p> <p>1 these e-mail notifications? 2 A. Yes. 3 Q. And do you open the attachments as a 4 general matter? 5 A. It depends on the topic. 6 Q. Are there certain topics that you would be 7 more likely to open an attachment on than others? 8 A. If it was a topic that's pertaining to a 9 facility that -- something that would pertain to a 10 facility such as our surgery center. 11 Q. Do you recall ever receiving any e-mail or 12 an attachment to an e-mail that had anything to do at 13 all with compounding pharmacies? 14 A. No, sir. 15 Q. Can you -- do you still have the exhibits 16 in front of you? 17 A. Yes, sir. 18 Q. Can you look at Exhibit 39. I'd like to 19 ask you first, you see the Exhibit 39 has individual 20 page numbers that are different than the Bates 21 numbers? 22 A. Yes. 23 Q. Just take a look at Page 1 first. You send 24 an e-mail to Marlese Allen saying, "Do I have to use 25 certain vendors for ordering"; correct?</p>

Page 253

1 A. Correct.
 2 Q. You were seeking her permission to switch
 3 from Cardinal to other vendors; is that right?
 4 A. I was asking can I do -- can I use other
 5 vendors or is there a set vendor that I have to use.
 6 Q. Right. And you were looking for her
 7 approval to choose vendors; correct?
 8 A. I just need to know if I could do that.
 9 Q. You were asking --
 10 A. I had recently taken this position so I had
 11 to -- I was getting clarification on what I could use.
 12 Q. Okay. I'm sorry. Turn to Page 39 of that
 13 same exhibit, please. I'm sorry, Page 47. This is
 14 the patient list that Mr. Volan asked you about
 15 earlier?
 16 A. Uh-huh (affirmative).
 17 Q. And I'm just drawing your attention -- if
 18 you look at the fourth and fifth entries in that
 19 patient list, you'll see that -- who is ASA on that
 20 patient list? That's an anesthesiologist?
 21 A. Yes.
 22 Q. Who is that?
 23 A. That would be Dr. Dickerson, Carrero, Arney
 24 and Rome's group.
 25 Q. And if you look down to JWC, do you see

Page 255

1 If you look at the top of Page 54, this
 2 is -- Dr. Culclasure is -- is forwarding you an e-mail
 3 that he received from a Laxmaiah Manchikanti; is that
 4 correct?
 5 A. Yes.
 6 Q. Do you know who Laxmaiah Manchikanti is?
 7 A. No, I do not.
 8 Q. But if you -- and then the thing that is
 9 forwarded is actually a long e-mail or a letter to
 10 Dr. Culclasure; correct?
 11 A. That is correct.
 12 Q. And in the last sentence in the first
 13 paragraph, there's some discussion of multidose vials,
 14 but then there's the statement in the last sentence of
 15 the paragraph that "There are more cases of infections
 16 and increased risk with compounding." Do you see
 17 that?
 18 A. Yes, sir.
 19 Q. Do you recall learning in July of 2012 that
 20 a doctor named Laxmaiah Manchikanti told
 21 Dr. Culclasure that there were cases of infections and
 22 increased risk with compounding?
 23 A. But I don't think -- this is not what he's
 24 referring to as far as -- that's not the basis for
 25 this e-mail.

Page 254

1 that there's an entry for an 8:00 ESI 2 with JWC?
 2 A. Yes.
 3 Q. That means it's a second steroid injection
 4 in a series?
 5 A. Correct. It says two of three.
 6 Q. And then the next entry is at 8:15 entry
 7 for a three of three ESI with JWC?
 8 A. That's correct.
 9 Q. And that's Mr. -- Dr. Culclasure as well?
 10 A. Correct.
 11 Q. So he's scheduled to do ESIs -- two ESIs 15
 12 minutes apart?
 13 A. Yes.
 14 Q. And is that the standard scheduling that
 15 was used in the clinic, that ESIs could be scheduled
 16 by the same anesthesiologist 15 minutes apart?
 17 A. Yes.
 18 Q. Are you aware if that's industry standard
 19 as well as your clinic standard?
 20 A. I don't know what the industry standard
 21 does.
 22 Q. If you look at Page 54 of that same
 23 exhibit, please. I believe you were asked about this
 24 by Mr. Volan, and I don't intend to be repetitive, but
 25 I just had a couple of followup questions.

Page 256

1 Q. Well, let me try this question. There is a
 2 reference in this e-mail to cases of infections at
 3 increased risk with compounding; correct?
 4 A. That is what this says, yes, sir.
 5 Q. And you read that around the time that you
 6 received it in July of 2012; correct?
 7 A. I -- you know, I -- I received it. I can't
 8 tell you how extensive I read it.
 9 Q. Well, you would normally read an e-mail
 10 that Dr. Culclasure forwards to you, wouldn't you?
 11 A. Sometimes.
 12 Q. After receiving this e-mail and seeing the
 13 reference to cases of infections and increased risk
 14 with compounding, did you do anything about your
 15 ongoing relationship with NECC?
 16 A. I was having no problems with NECC so there
 17 was -- I had no reason to.
 18 Q. And this reference here to cases of
 19 infections and increased risk with compounding did not
 20 cause you in any way to ask any questions or do any
 21 further research or investigation of compounding
 22 pharmacies, did it?
 23 A. I did not -- this -- one reason was because
 24 this is dealing with a different medication and a
 25 different scenario than...

Page 257

1 Q. So you didn't do anything?
 2 A. Apparently not.
 3 MR. GIDEON: It's okay.
 4 Q. (By Mr. Rehnquist) You testified in
 5 response to Mr. Volan's question, Ms. Schamberger, that
 6 you believe that Depo-Medrol is considered to be
 7 preservative-free; correct?
 8 A. Not all Depo-Medrol is preservative-free.
 9 There is Depo-Medrol that is not preservative-free
 10 that states it is -- has preservatives in it.
 11 Q. But you testified, I believe, that at least
 12 some of the Depo-Medrol made by Pfizer is
 13 preservative-free; correct?
 14 A. That is what their literature says.
 15 Q. And that was literature that you had
 16 received from Pfizer about Depo-Medrol stating that
 17 some of it was --
 18 A. That's what's on the --
 19 Q. -- preservative-free?
 20 A. That's what's on the bottle.
 21 Q. And you believe that the Depo-Medrol label
 22 on the vial itself states that it's preservative-free?
 23 A. Yes, sir.
 24 Q. Turn to Exhibit 36, please.
 25 A. Okay. Exhibit, wrong one.

Page 259

1 might be on the box?
 2 A. I'd have to see to, you know...
 3 Q. But anyway, you'll agree with me that as
 4 far as the photographic depictions on Page 4 are
 5 concerned, there is nothing on the front of those
 6 labels that indicates this is preservative-free;
 7 correct?
 8 A. I don't see that word written.
 9 Q. Ms. Schamberger, I would assume that you
 10 learned a lot about compounded pharmaceuticals since
 11 the outbreak?
 12 A. Yes.
 13 Q. And do you know now that Massachusetts
 14 Board of Pharmacy regulations in 2000 -- 2010, 2011,
 15 2012 did require patient-specific prescriptions in
 16 order for drugs to be compounded by a compounding
 17 pharmacy?
 18 A. Since that -- at the present, I know that
 19 now.
 20 Q. You know that now. If you had known that
 21 at the time, would you have still gone into business
 22 with NECC and given them those patient names that you
 23 did?
 24 MR. GIDEON: Objection.
 25 THE WITNESS: I don't know.

Page 258

1 MR. REHNQUIST: Do you need a copy,
 2 C.J.?
 3 MR. GIDEON: No. It's here. Let me
 4 have that. Let me put this back in order.
 5 Q. (By Mr. Rehnquist) Can you look at -- on
 6 Page 4, Ms. Schamberger, and do you see the top of Page
 7 4 those are photographic depictions of vials of
 8 Depo-Medrol. Do you see that?
 9 A. Yes, I do.
 10 Q. And the -- the lettering on the vial is the
 11 label that you were talking about before; correct?
 12 A. Yeah, the single dose vials.
 13 Q. Correct. Do you see anything on the label
 14 of any of those four vials of Depo-Medrol that states
 15 that they are preservative-free?
 16 A. I can only see the front.
 17 Q. Is there language on the back as well?
 18 A. There's additional information on this.
 19 Q. And do you recall that the label
 20 information that you recall about Depo-Medrol being
 21 preservative-free was on the back of the label?
 22 A. I don't remember where it is. It is -- it
 23 states somewhere on the container, the box, somewhere,
 24 it says preservative-free.
 25 Q. So you're not sure it's on the label. It

Page 260

1 Q. (By Mr. Rehnquist) Did you also know that
 2 during 2010, 2011, 2012 that Tennessee also had a
 3 statute requiring a patient-specific prescription?
 4 MR. GIDEON: Objection to the form.
 5 That is absolutely wrong. I object to your
 6 misrepresentation as to the law in this
 7 state.
 8 MR. REHNQUIST: Okay. Let me finish
 9 the question --
 10 MR. GIDEON: Objection.
 11 MR. REHNQUIST: -- and then state the
 12 objection.
 13 And if I'm misstating the law, I'm
 14 misinformed. Okay?
 15 Q. (By Mr. Rehnquist) Did you know before the
 16 outbreak that Tennessee, in the 2011-2012 time period,
 17 had a statute that required that a drug be compounded
 18 only based on a specific patient prescription?
 19 MR. GIDEON: Objection to the form
 20 and that is an absolute misstatement of the
 21 law of the state of Tennessee then and
 22 today.
 23 Q. (By Mr. Rehnquist) Did you know that?
 24 A. No.
 25 MR. REHNQUIST: Do you have

<p style="text-align: center;">Page 261</p> <p>1 Exhibit 51, C.J.?</p> <p>2 Q. (By Mr. Rehnquist) You were asked about 3 this document before. And do you see that in this, 4 the first paragraph of the publication from Clint 5 Pharmaceuticals, he states that compounded 6 corticosteroids do not have FDA approval. Do you see 7 that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And MPA is a com -- MPA from a compounding 10 pharmacy is a compounded corticosteroid; correct?</p> <p>11 A. Are you reading that from here, sir?</p> <p>12 Q. I just want -- I just want to make sure 13 we're on the same page, that MPA is a corticosteroid.</p> <p>14 A. Yes.</p> <p>15 Q. Was this the first time that you realized 16 that compounded MPA did not have FDA approval?</p> <p>17 A. Not from there. I didn't learn that from 18 Clint Pharmaceuticals, I don't believe.</p> <p>19 Q. When did you learn that?</p> <p>20 A. I -- that, I do not know.</p> <p>21 Q. At some point, at any rate, you learned 22 that compounded MPA was not FDA approved; correct?</p> <p>23 A. After the fact.</p> <p>24 Q. Okay. So in other words, the first time 25 you learned that, that it wasn't approved was after</p>	<p style="text-align: center;">Page 263</p> <p>1 A. No.</p> <p>2 Q. Why not?</p> <p>3 A. The compounding pharmacies that I've dealt 4 with are small facilities that deal with -- they're 5 small little places, facilities.</p> <p>6 Q. These are the types of compounding 7 pharmacies that you went to in your testimony before 8 for a procedure that had to be done pursuant to a 9 patient prescription; correct?</p> <p>10 A. That is correct.</p> <p>11 Q. And is your understanding that all of the 12 compounding pharmacies that you know of in Tennessee 13 wouldn't have the capacity to produce the kind of -- 14 the quantity of drugs that you needed for your 15 practice?</p> <p>16 A. Those are the only two compounding 17 pharmacies I know of, the two I had dealt with. I 18 don't know of -- I don't know about any others in 19 Tennessee.</p> <p>20 Q. And neither of them had the capacity to 21 meet your needs; correct?</p> <p>22 A. I did not ask them.</p> <p>23 Q. But -- and you did not ask them because 24 they were small; correct?</p> <p>25 A. Correct.</p>
<p style="text-align: center;">Page 262</p> <p>1 the outbreak?</p> <p>2 A. Yes.</p> <p>3 Q. If you had known in 2011 that compounded 4 MPA was not FDA approved, would you have done business 5 with NECC?</p> <p>6 MR. GIDEON: Objection to the form.</p> <p>7 THE WITNESS: I don't know.</p> <p>8 Q. (By Mr. Rehnquist) When you were first 9 having discussions with NECC in the 2000 -- let me 10 say -- putting a date aside, between the period of 11 time when you first ran into NECC at the FASCA 12 conference and the time that you actually ordered MPA 13 from NECC, did you have any conversations with any 14 other compounding pharmacies about buying MPA from 15 them?</p> <p>16 A. No.</p> <p>17 Q. Did you look for any other compounding 18 pharmacies during that time period that might be able 19 to sell you MPA?</p> <p>20 A. No.</p> <p>21 Q. Are you aware of any compounding pharmacies 22 in Tennessee?</p> <p>23 A. Yes.</p> <p>24 Q. Did you inquire of them about their 25 willingness to make MPA for you?</p>	<p style="text-align: center;">Page 264</p> <p>1 Q. And you did not ask them as well because 2 you knew that they would only give you a compounded 3 drug with a prescription; correct?</p> <p>4 A. No, sir. I -- these compounding pharmacies 5 that I had used were, like, your little local 6 pharmacy. So they made something very specific that 7 would require a prescription.</p> <p>8 Q. And experience with those kind of small 9 pharmacies that would compound a drug pursuant to a 10 prescription, that's the only kind of compounding 11 pharmacy you were aware of before you began talking to 12 people from NECC; correct?</p> <p>13 A. That is correct.</p> <p>14 Q. So basically nothing in the on-the-job 15 training that you described earlier in the day 16 prepared you for dealing with a large quantity 17 compounding pharmacy; correct?</p> <p>18 A. I've never had the need for that type of --</p> <p>19 Q. You testified in response to Mr. Volan's 20 question that as far as you know a single vial of MPA 21 was never used for more than one patient?</p> <p>22 A. That is correct.</p> <p>23 Q. Were there any policies in place prior to 24 the outbreak at STOPNC about multiple uses of 25 single-dose vials?</p>

Page 265

1 A. I don't know.
 2 Q. Nothing -- you don't recall anything as we
 3 sit here?
 4 A. No. No.
 5 Q. Can you look at Exhibit 31, please. And
 6 can you look at -- it's hand marked Page 2 of
 7 Exhibit 31. And you see the third line on that
 8 document -- this is an NECC marketing material;
 9 correct?
 10 A. It's the literature they gave.
 11 Q. Page 3.
 12 A. Yes.
 13 Q. This is one of the documents that you
 14 remember seeing?
 15 A. Yes.
 16 Q. And the third line -- this page is about
 17 MPA; correct?
 18 A. Correct.
 19 Q. And the third line of that says that,
 20 "Preservative-free is available in one mL, two mL and
 21 five mL vials." Do you see that?
 22 A. Yes, sir.
 23 Q. And I believe you testified that there are
 24 some patients who actually need sufficient MPA for an
 25 injection that you have to open two vials; correct?

Page 266

1 A. That is correct.
 2 Q. Why would anyone have a need for five mL
 3 vials of MPA, based on your experience?
 4 A. I -- that, I -- I don't know. We don't use
 5 five.
 6 Q. Well, is there any patient that's big
 7 enough or needs that amount of MPA for a steroid
 8 injection?
 9 A. You wouldn't put that much in an epidural
 10 space.
 11 Q. Did you read this when you saw it as
 12 indicating that these five milliliter vials were being
 13 marketed for use on multiple patients?
 14 A. No, I didn't read it as that.
 15 Q. That wasn't a red flag to you about New
 16 England Compounding Company that they were selling
 17 five mL vials of MPA?
 18 A. No.
 19 Q. Have you heard of anyone else selling five
 20 mL vials of MPA?
 21 A. I -- I haven't looked. It doesn't meet my
 22 needs, so I would not know.
 23 Q. And this was the first time, in fact, you
 24 heard of anybody selling two mL vials of MPA; correct?
 25 A. It's the first time I ever checked on it.

Page 267

1 (Exhibit 55 was marked for
 2 identification.)
 3 Q. (By Mr. Rehnquist) I'm showing you a new
 4 exhibit, Ms. Schamberger, that's marked as 55.
 5 MR. GIDEON: What's the Bates number?
 6 This is a duplicate.
 7 MR. REHNQUIST: Is that a
 8 different --
 9 MR. GIDEON: Duplicate. 14343, St.
 10 Thomas.
 11 Q. (By Mr. Rehnquist) Let's start from the
 12 bottom of this document on the back. This is an
 13 e-mail from a Marion Kainer at the Tennessee
 14 Department of Health?
 15 A. Correct.
 16 Q. And do you know who she is?
 17 A. Yes, I do.
 18 Q. Who is she?
 19 A. She's the -- she's an epidemiologist or
 20 whatever with the Department of -- Tennessee
 21 Department of Health.
 22 Q. And the -- the e-mail at the bottom of the
 23 page from Marion Kainer was either sent to you or
 24 forwarded to you; is that correct? If you read the
 25 whole thread, start from the bottom up.

Page 268

1 MR. GIDEON: I think he means from
 2 the back -- backside up.
 3 Q. (By Mr. Rehnquist) I'm sorry. From the
 4 bottom of the back.
 5 MR. GIDEON: Yeah, read it from there
 6 and then flip the page.
 7 THE WITNESS: It appears this is from
 8 Dr. Culclasure to Dr. Kainer, or...
 9 Q. (By Mr. Rehnquist) I'll ask you a
 10 question.
 11 A. I'm trying to follow it.
 12 Q. It appears as though Dr. Culclasure
 13 responds to the e-mail from Marion Kainer and he
 14 copies you and some other people on that including
 15 Scott Butler; correct?
 16 A. That is correct.
 17 Q. And what Dr. Culclasure tells Marion
 18 Kainer, among other things, in his response is that
 19 "Debra will write action plan and new policies and
 20 procedures. Will get copies to you ASAP."
 21 Do you see that? What I just read, Ms.
 22 Schamberger, is on the back of the exhibit. It's the
 23 second line from the top.
 24 A. Oh, okay. I do see that. Yes.
 25 Q. And did you do that? Did you write an

<p style="text-align: right;">Page 269</p> <p>1 action plan and draft new policies and procedures in 2 response to Ms. Kainer?</p> <p>3 A. We wrote a guide, a -- it was a procedure 4 guide covering everything that she asked for. It's a 5 guideline for the staff and put it into place.</p> <p>6 Q. Okay. And you did it really fast, didn't 7 you? I'm going to show it to you in a minute.</p> <p>8 A. Yeah, after she had requested it, we did.</p> <p>9 Q. Okay. And two of the concerns that Ms. 10 Kainer expressed in her e-mail were single-dose vials 11 being used on multiple patients; correct?</p> <p>12 A. Correct.</p> <p>13 Q. And this was the issue that you talked 14 about before with -- and I may not pronounce it 15 right -- Omnipaque?</p> <p>16 A. Omnipaque.</p> <p>17 Q. Omnipaque. And the other concerns she 18 raised was that the tops of the vials need to be wiped 19 down before being opened; correct?</p> <p>20 A. Correct.</p> <p>21 (Exhibit 56 was marked for 22 identification.)</p> <p>23 Q. (By Mr. Rehnquist) This is Exhibit 56. 24 It's a document entitled "St. Thomas Outpatient 25 Neurological Center injection practice guidelines."</p>	<p style="text-align: right;">Page 271</p> <p>1 A. Yes, it is.</p> <p>2 Q. At the very bottom of that document, it 3 indicates in bold type, "Note: All medications 4 needles and syringes are single-use patient items and 5 are disposed of at the end of each procedure."</p> <p>6 Do you see that?</p> <p>7 A. Yes, I do.</p> <p>8 Q. And that was drafted in this policy to 9 specifically respond to the concerns that Ms. Kainer 10 had raised; correct?</p> <p>11 A. Correct.</p> <p>12 Q. Was this the first time that STOPNC had any 13 kind of a policy regarding injection practice 14 guidelines?</p> <p>15 A. It's the first time we had anything that 16 went through all of these steps listed.</p> <p>17 Q. What did you have that didn't go through 18 all these steps?</p> <p>19 A. Now, that, I don't recall.</p> <p>20 Q. Did you have -- do you recall having a 21 policy that was -- that had specific guidelines for 22 injection practices?</p> <p>23 A. I don't remember what we had in place. A 24 lot of this is -- is, you know -- it's a guideline. 25 It's not a policy. It's a guideline to use just --</p>
<p style="text-align: right;">Page 270</p> <p>1 Have you had a chance to take a look at the 2 document, Ms. Schamberger, and see if you're familiar 3 with it or not?</p> <p>4 A. Yes, I am.</p> <p>5 Q. And is this the corrective action plan that 6 was written in response to the e-mail from Marion 7 Kainer?</p> <p>8 A. Yes, it is.</p> <p>9 Q. Was a person named Candace Smith involved 10 in developing this corrective action plan?</p> <p>11 A. I reviewed it with Candace.</p> <p>12 Q. And who is Candace Smith?</p> <p>13 A. She's infection prevention nurse for St. 14 Thomas Hospital.</p> <p>15 Q. Is she an employee of Howell Allen?</p> <p>16 A. No, she is not.</p> <p>17 Q. And why did you review it with her?</p> <p>18 A. Because she's an infection control nurse 19 and she had been working with us on -- with -- since 20 the outbreak.</p> <p>21 Q. Were working with you on responses to the 22 outbreak, to just describe it generally?</p> <p>23 A. And providing me with information.</p> <p>24 Q. And at the very bottom of Exhibit 56 -- is 25 that 56, Ms. Schamberger?</p>	<p style="text-align: right;">Page 272</p> <p>1 most of everything --</p> <p>2 Q. Some of it's optional?</p> <p>3 A. Everything on here is -- most everything on 4 here is things that are just a -- it's -- what's the 5 word I'm looking for?</p> <p>6 MR. GIDEON: Take your time.</p> <p>7 THE WITNESS: This is just giving 8 someone a step by step on how to set up and 9 do the procedure. Normally your policies 10 do not do a little step by step by 11 step.</p> <p>12 Q. (By Mr. Rehnquist) This was something new, 13 kind of a checklist?</p> <p>14 A. Something very similar.</p> <p>15 Q. Was this checklist something that was 16 supposed to be followed in every injection that was 17 done at STOPNC?</p> <p>18 A. It was followed with every injection. We 19 didn't make any changes. This is how we did things. 20 It just was not written down.</p> <p>21 Q. Does a patient have to have a consulting 22 appointment with a STOPNC anesthesiologist before he 23 has a steroid injection?</p> <p>24 A. The anesthesiologist speaks with the 25 patient before and obtains their history before</p>

Page 273

1 they -- he does the injection.

2 Q. Maybe that was a bad question. My question
 3 is let's suppose someone is referred from Howell Allen
 4 and they come over to STOPNC. Can they get an
 5 injection the very first time they walk in the door or
 6 do they have to discuss the procedure with an
 7 anesthesiologist and then come back again later?

8 A. They get the procedure that day after
 9 talking with the anesthesiologist.

10 Q. And sometimes the first steroid injection
 11 doesn't work; correct?

12 A. Correct.

13 Q. It's not uncommon for a patient to have two
 14 or even three injections; correct?

15 A. That is correct.

16 Q. Do patients ever have more than three
 17 injections?

18 A. Occasionally the doctor -- physician will
 19 order four.

20 Q. And is there a certain amount of time
 21 period that is supposed to elapse between the first
 22 injection and the second injection?

23 A. No sooner than ten days apart. They can be
 24 two to three weeks or longer apart.

25 Q. And what is the source of that guideline or

Page 275

1 Q. For example, did any patient ever request
 2 being given the brand drug rather than the generic
 3 equivalent?

4 A. Not that I'm aware.

5 Q. Before May 2011 -- I'm sorry. Before the
 6 outbreak, as a matter of practice were patients
 7 informed -- withdrawn.

8 During the -- during the period that you
 9 were buying MPA from NECC, were patients informed
 10 during that time period that they were being given a
 11 non-FDA approved drug from a compounding pharmacy?

12 A. No.

13 Q. Do you participate in the -- do you
 14 occasionally participate in the meetings that
 15 Dr. Culclasure or another anesthesiologist would have
 16 with patients when they inform them of the risks of
 17 the injection?

18 A. I have heard Dr. Culclasure explain the
 19 procedure to them -- to the patients.

20 Q. Have you heard other doctors explain the
 21 procedures to the patients?

22 A. I don't know if I've been in the room when
 23 the other doctors were explaining or not.

24 Q. What risks did Dr. Culclasure inform the
 25 patients of when you've overheard him?

Page 274

Page 276

1 rule or practice that you just referred to that they
 2 have to be at least ten days apart?

3 A. That, you'd have to ask the surgeon or the
 4 medical -- the doctor. There's a rationale that I
 5 can't give that to you that would come from the doctor
 6 to tell you.

7 Q. Are you aware of any limit on the number of
 8 steroid injections a patient can get in a year?

9 A. They do not like for them to have more than
 10 three or four in a six-month period.

11 Q. Are you aware of any insurance or other
 12 payor restrictions on number of steroid injections you
 13 can get in a year?

14 A. Yes.

15 Q. What generally are those restrictions, if
 16 you know them?

17 A. Now or then?

18 Q. Let's talk about then.

19 A. Then, I -- there was -- I don't know.
 Medicare, I believe, had a restriction on the number,
 but I do not remember -- I do not remember the
 numbers.

20 Q. Did any patient ever request a particular
 21 type or source of steroid for an injection?

22 A. Not that I'm aware.

1 A. I don't recall. They're on the form. He
 2 would go through and explain the risks that are listed
 3 on his -- when he does his history with them.

4 Q. Has any patient ever requested specifically
 5 that he wants Depo-Medrol from Pfizer, to your
 6 knowledge?

7 A. Not to my knowledge.

8 Q. Ms. Schamburg, you testified that
 9 Dr. Culclasure had a preference for using
 10 preservative-free MPA?

11 A. Yes.

12 Q. Did he tell you why he had that preference?

13 A. They don't like to put alcohol in the
 14 epidural space.

15 Q. Why not? Did he tell you why not?

16 A. He did, but I don't -- I can't -- I don't
 remember exactly why. There's a reason for it.

17 Q. Did he ever tell you there was a risk of a
 18 complication called arachnoiditis?

19 A. That sounds familiar.

20 Q. Did he ever talk to you at all about the
 21 literature on the subject that there was some
 22 controversy about using drugs with a preservative in
 23 them in steroid injections?

24 A. I remember having conversations of that,

1 but I don't remember the content of it.
 2 Q. Do you remember having those conversations
 3 with Dr. Culclasure in 2010, let's say, six months
 4 before you started doing business with NECC?
 5 A. I don't recall.
 6 Q. Do you recall for how long prior to doing
 7 business with NECC that Dr. Culclasure had expressed
 8 to you concerns about using a steroid with
 9 preservative in it for ESIs?
 10 A. No.
 11 Q. Now, Mr. Volan asked you -- asked you
 12 questions today about everybody that you talked to in
 13 connection with making the decision to buy drugs from
 14 NECC. Do you remember that?
 15 A. Yes.
 16 Q. And you never mentioned in those -- you
 17 never mentioned in response to those questions that
 18 you had any communications with your pharmacy
 19 consultant, Mr. O'Neil, about the decision to buy
 20 drugs from NECC; correct?
 21 A. I did not respond to that.
 22 Q. Right. You didn't talk to Mr. O'Neil about
 23 the decision to buy drugs from NECC, did you?
 24 MR. GIDEON: If it -- if -- if you
 25 had any discussions with Mr. O'Neil in

1 Mr. O'Neil on the subject of NEC's patient name
 2 request; correct?
 3 MR. GIDEON: Same.
 4 Q. (By Mr. Rehnquist) You're not going to
 5 tell me whether or not?
 6 A. No, sir.
 7 Q. And that's on the basis of this privilege
 8 that your lawyer has advised you about?
 9 A. That is correct.
 10 Q. Now, you don't have a pharmacist in-house
 11 do you --
 12 A. No, sir.
 13 Q. -- at STOPNC?
 14 And you're not a pharmacist?
 15 A. No, I'm not.
 16 Q. And that's why you have a pharmacy
 17 consultant; correct?
 18 A. That is correct.
 19 Q. Mr. O'Neil is STOPNC's source of pharmacy
 20 expertise; correct?
 21 A. Yes.
 22 Q. And you filed an affidavit in court under
 23 oath about that relationship with Mr. O'Neil, didn't
 24 you?
 25 A. I don't remember. I --

1 connection with a quality improvement
 2 committee, then that is privileged in
 3 Tennessee.
 4 THE WITNESS: Okay.
 5 MR. GIDEON: And you can't answer it.
 6 If it wasn't in connection with quality
 7 improvement, then you can; okay?
 8 THE WITNESS: Okay.
 9 Q. (By Mr. Rehnquist) Did you have any
 10 conversations with Mr. O'Neil about the decision to
 11 buy drugs from NECC?
 12 A. It's -- that's quality.
 13 Q. So is the -- is the answer that you did
 14 have communications with him?
 15 MR. GIDEON: She's not going to
 16 answer the question.
 17 THE WITNESS: The answer is I'm not
 18 going to answer.
 19 MR. REHNQUIST: She's not going to
 20 tell me whether or not she had
 21 communications with Mr. O'Neil on the
 22 subject?
 23 MR. GIDEON: Right.
 24 Q. (By Mr. Rehnquist) And you're not going to
 25 tell me whether or not you had communications with

1 Q. You probably filed a lot of things.
 2 A. I have filed a lot of things. I can't tell
 3 you that's what it is.
 4 Q. I'm sorry. Can you look at what's
 5 previously been marked as Exhibit 52. And I believe
 6 you said you wrote this affidavit at the request of
 7 the board of health?
 8 A. That's what it said. I do not know who I
 9 wrote this affidavit for.
 10 Q. But this -- this is an affidavit that you
 11 signed under oath on January 11th, '19 -- sorry --
 12 2013?
 13 A. January 11th, '13. Yes, sir.
 14 Q. And can you just take a look at Paragraph 5
 15 and read that one to yourself, please.
 16 A. (The witness complies.)
 17 Q. In that last paragraph, you state that, "Of
 18 the three lots that were subject to a voluntary
 19 recall," those were all lots from which you purchased
 20 MPA from NECC; correct?
 21 A. These lots -- we did purchase -- that were
 22 these three lots.
 23 Q. Okay. Do you have any records that
 24 indicate for a particular patient injection which of
 25 those three lots the steroids came from?

Page 281

1 A. No.
 2 Q. Did the Tennessee Board of Health ask you
 3 about that? In other words -- let me withdraw the
 4 question.
 5 Did the Tennessee Board of Health ask you
 6 if you could connect one of those three lots to a
 7 specific injection?
 8 A. I'm not sure I understand exactly what
 9 you're -- I mean, I can't tell you that this
 10 particular patient got that particular lot number.
 11 Q. Ms. Schamberg, you've been interviewed by
 12 many people from different government agencies since
 13 the outbreak; correct?
 14 A. That is correct.
 15 Q. And have you, in all of -- can you just
 16 identify as best you can which government agencies
 17 have interviewed you.
 18 A. Since the outbreak?
 19 Q. Since the outbreak. We talked about the
 20 Tennessee Board of Health. Is that one?
 21 A. The Tennessee Board of Health. The
 22 Tennessee board for licensure regulations. They do --
 23 they surveyed us. They came in. The DEA came in as a
 24 random -- it had nothing to do with the outbreak. We
 25 did have a survey by them.

Page 282

1 Q. I just want to focus on the outbreak.
 2 A. Okay.
 3 Q. Any other government bodies interview you
 4 in connection with the meningitis outbreak?
 5 A. Joint Commission.
 6 Q. Joint Commission. What else?
 7 A. Tennessee --
 8 Q. Any federal bodies? Did you talk to the
 9 U.S. Attorney's Office in Boston?
 10 A. Oh, yes. Yes.
 11 Q. You talked to the CDC?
 12 A. I believe I did.
 13 Q. And in all those -- in all those
 14 interviews, have you had counsel with you? In other
 15 words, lawyers that represent STOPNC.
 16 A. No.
 17 Q. Did you have lawyers with you when you
 18 talked to the CDC?
 19 A. No, because some of the CDC was conference
 20 calls.
 21 Q. Did you have lawyers with you when you
 22 talked to the U.S. Attorney's Office in Boston?
 23 A. I -- I don't remember.
 24 THE WITNESS: I don't think y'all
 25 were there.

Page 283

1 Yes, they were.
 2 Q. (By Mr. Rehnquist) Pardon me?
 3 A. I was trying to remember. Yes, they were
 4 there. I remember him sitting there.
 5 Q. And did they take notes of those
 6 interviews?
 7 A. I assume they did. I don't know.
 8 Q. Did you observe them taking notes?
 9 A. My focus was on the gentleman talking with
 10 me.
 11 Q. What was the general subject matter of the
 12 interview with the U.S. Attorney's Office? I mean, I
 13 understand it was about the outbreak, but do you
 14 recall any of the questions that they asked?
 15 A. I do not.
 16 (Exhibit 57 was marked for
 17 identification.)
 18 Q. (By Mr. Rehnquist) This is Exhibit 57.
 19 It's a document and an attachment, which I understand
 20 were produced back to back.
 21 MR. REHNQUIST: C.J., I've got...
 22 MR. GIDEON: There's a -- what's the
 23 Bates stamp number?
 24 MS. MACLEMAN: The Bates stamp is
 25 STOPNC_004245.

Page 284

1 MR. REHNQUIST: It's not on this
 2 particular copy.
 3 MR. GIDEON: Number again, please,
 4 00?
 5 MS. MACLEMAN: 4245.
 6 MR. GIDEON: It's Exhibit No. 57.
 7 Q. (By Mr. Rehnquist) Have you had a chance
 8 to look at this exhibit, Ms. Schamberg?
 9 A. Yes, I have.
 10 Q. So there was questioning earlier about the
 11 average number of steroids injections that STOPNC
 12 would give in a period -- in a particular month. Do
 13 you recall that testimony?
 14 A. Yes.
 15 Q. And is it fair to say that, like, 500
 16 procedures would be a good month?
 17 A. 500 would be a good month.
 18 Q. And can you look at the spreadsheet that
 19 is -- and I apologize. There aren't -- there aren't
 20 Bates stamp numbers on the spreadsheet, but I'm going
 21 to try to ask you just a couple of questions about it
 22 anyway and then I'm done.
 23 If you look at the -- can you hold it so
 24 the staple is in the upper right-hand corner?
 25 A. Yes.

Page 285

1 Q. Okay. If you look at that page, do you see
 2 that for August 2012 it lists 504; correct?
 3 A. That is correct.
 4 Q. And that's the same number that is in the
 5 e-mail that is the first page of Exhibit 57; correct?
 6 A. Correct.
 7 Q. And then if you turn to the -- if you hold
 8 the document so the staple is in the lower right-hand
 9 corner on what I'm going to call the back page.
 10 A. Uh-huh (affirmative).
 11 Q. This is a list of all of STOPNC's
 12 procedures for 2012, correct, up through August?
 13 A. Correct.
 14 Q. And you mentioned that STOPNC -- you
 15 mentioned this morning that STOPNC did two other
 16 procedures, one was called a denervation and one was
 17 called a stem trial.
 18 A. Yes.
 19 Q. And this document has a row for stem trial
 20 about halfway down the left-hand side of the page I've
 21 been asking about. Do you see that?
 22 A. Yes.
 23 Q. This indicates that STOPNC did zero stem
 24 trials in 2012?
 25 A. That is correct.

Page 286

1 Q. And do any of the other items in the column
 2 under the heading procedures refer to denervations?
 3 A. Yes. The LRFA is a radiofrequency ablation
 4 that is also a denervation. Same answer.
 5 Q. That's a denervation?
 6 A. Yes, sir.
 7 Q. And so if you add those numbers up for
 8 2012, just going across from the right LRFA, it looks
 9 like there was a total of 25 denervations done in
 10 2000 -- in this period of 2012, approximately 25?
 11 A. 16. Huh-uh (negative). First quarter and
 12 second quarter is four, plus seven, 11, 12, 13, 14,
 13 15. 15 of lumbar.
 14 Q. Are you -- I'm sorry. Just looking at the
 15 LRFA row.
 16 A. Correct. But if you'll look it's --
 17 there's a first, second, third, fourth quarter that
 18 gives you the total for the quarter.
 19 Q. Okay. Gotcha. But in any event, LRFA is
 20 the denervation procedure that you testified about
 21 this morning?
 22 A. That is correct.
 23 MR. REHNQUIST: Ms. Schamberg, thanks
 24 very much for staying late and I have
 25 nothing further.

Page 287

1 MS. CARRICK: I have just a few
 2 questions.
 3 MR. GIDEON: Switch with him. Who do
 4 you represent?
 5 MS. CARRICK: Dr. Lister and SCC,
 6 Surgery Center - Crossville.
 7 MR. REHNQUIST: I didn't catch that.
 8 Can you repeat it on the record.
 9 MS. CARRICK: Yes.
 10 EXAMINATION
 11 BY MS. CARRICK:
 12 Q. Ms. Schamberg, my name is Megan Carrick. I
 13 represent Dr. Lister, who is out in Crossville, and
 14 Specialty Surgery Center, which is in Crossville as
 15 well, and I just have a few questions and you've been
 16 quite the trooper today.
 17 You testified that you learned that there
 18 was an issue on September 18th when you received an
 19 e-mail from Candace Smith; is that correct?
 20 A. That is correct.
 21 Q. And at that time, did you alert any
 22 authorities such as a State Board of Health or a
 23 federal agency that there was some sort of issue going
 24 on?
 25 A. No, I did not.

Page 288

1 Q. Did you instruct any of your staff or
 2 anyone at STOPNC to do so?
 3 A. I was on vacation. She was -- the patient
 4 was in Vanderbilt Hospital. They were the ones that
 5 were doing the conducting of what was going on.
 6 Q. Candace Smith at St. Thomas was dealing
 7 with the issue at that time; is that correct?
 8 A. The patient was at Vanderbilt Hospital.
 9 They had contacted Candace Smith because the patient
 10 had said they had an epidural steroid injection at St.
 11 Thomas. She knew they did not do the injection and
 12 called me to see if it was at our facility.
 13 Q. All right. And I believe you testified
 14 that you were first contacted by the Tennessee
 15 Department of Health the following Sunday.
 16 A. I believe --
 17 Q. Is that correct?
 18 A. I believe that's correct.
 19 Q. Do you know how they became aware that
 20 there was an issue at that time?
 21 A. They knew prior to. They knew on Thursday
 22 that there was an issue.
 23 Q. So they became aware that there was an
 24 issue on Thursday, which would be September 19th; is
 25 that correct?

Page 289

1 A. The 20th.
 2 Q. The 20th?
 3 A. No, the 20th.
 4 Q. So in that interim, between September 18th
 5 and September 20th, do you know how the Tennessee
 6 Department of Health became aware that there was an
 7 issue?
 8 A. They were notified by the hospitals.
 9 Q. Was that Vanderbilt Hospital or St. Thomas
 10 Hospital?
 11 A. I do not know. I'm assuming both.
 12 MS. CARRICK: That's all of my
 13 questions.
 14 MR. GIDEON: All right. That's it.
 15 We do not waive signature. We'll see you
 16 tomorrow morning at 9:00.
 17 VIDEOGRAPHER: This concludes?
 18 This concludes the deposition. We're
 19 off the record. This is the end of Tape
 20 No. 5. The time is 5:55 p.m.
 21 (Deposition concluded at 5:55 p.m.)

Page 291

1 STATE OF GEORGIA:
 2 COUNTY OF FULTON:

3
 4 I hereby certify that the foregoing
 5 transcript was reported, as stated in the
 6 caption, and the questions and answers
 7 thereto were reduced to typewriting under
 8 my direction; that the foregoing pages
 9 represent a true, complete, and correct
 10 transcript of the evidence given upon said
 11 hearing, and I further certify that I am
 12 not of kin or counsel to the parties in the
 13 case; am not in the employ of counsel for
 14 any of said parties; nor am I in any way
 15 interested in the result of said case.

16 February 10, 2015

17 BLANCHE J. DUGAS, CCR-B-2290

Page 290

1
 2 DISCLOSURE
 3 Pursuant to Article 10.B of the Rules
 4 and Regulations of the Board of Court
 5 Reporting of the Judicial Council of
 6 Georgia which states: "Each court reporter
 7 shall tender a disclosure form at the time
 8 of the taking of the deposition stating the
 9 arrangements made for the reporting
 10 services of the certified court reporter,
 11 by the certified court reporter, the court
 12 reporter's employer or the referral source
 13 for the deposition, with any party to the
 14 litigation, counsel to the parties, or
 15 other entity. Such form shall be attached
 16 to the deposition transcript," I make the
 17 following disclosure:

18 I am a Georgia Certified Court
 19 Reporter. I am here as a representative of
 20 Discovery Litigation Services, LLC.
 21 Discovery Litigation Services, LLC was
 22 contacted to provide court reporting
 23 services for the deposition. Discovery
 24 Litigation Services, LLC will not be taking
 25 this deposition under any contract that is
 prohibited by O.C.G.A. 9-11-28(c).

Discovery Litigation Services, LLC
 has no contract/agreement to provide
 reporting services with any party to the
 case, any counsel in the case, or any
 reporter or reporting agency from whom a
 referral might have been made to cover this
 deposition.

Discovery Litigation Services, LLC
 will charge its usual and customary rates
 to all parties in the case, and a financial
 discount will not be given to any party to
 this litigation.

Blanche J. Dugas
 CCR No. B-2290

Page 292

1 CAPTION

2
 3 The Deposition of DEBRA SCHAMBERG, RN,
 4 taken in the matter, on the date, and at the time and
 5 place set out on the title page hereof.

6 It was requested that the deposition be
 7 taken by the reporter and that same be reduced to
 8 typewritten form.

9
 10 It was agreed by and between counsel and
 11 the parties that the Deponent will read and sign the
 12 transcript of said deposition.

Page 293

Page 295

1 DEPOSITION ERRATA SHEET

2 DLS Assignment No. 20638

3 Case Caption: In Re: New England Compounding
4 Pharmacy, Inc., et al

5 Witness: DEBRA SCHAMBERG, R.N. - 02/04/2015

8 DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the captioned matter or the same has been read to me, and The same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

19 Signed on the _____ day of

21 _____, 20___.
22

24 DEBRA SCHAMBERG, RN

25

1 DEPOSITION ERRATA SHEET

2 Page No. _____ Line No. _____ Change to: _____

3 _____

4 Reason for change: _____

5 Page No. _____ Line No. _____ Change to: _____

6 _____

7 Reason for change: _____

8 Page No. _____ Line No. _____ Change to: _____

9 _____

10 Reason for change: _____

11 Page No. _____ Line No. _____ Change to: _____

12 _____

13 Reason for change: _____

14 Page No. _____ Line No. _____ Change to: _____

15 _____

16 Reason for change: _____

17 Page No. _____ Line No. _____ Change to: _____

18 _____

19 Reason for change: _____

20 Page No. _____ Line No. _____ Change to: _____

21 _____

22 Reason for change: _____

23 _____

24 SIGNATURE: _____ DATE: _____

25 DEBRA SCHAMBERG, R.N.

Page 294

Page 296

1 CERTIFICATE

2 STATE OF GEORGIA

3 COUNTY OF FULTON

4 Before me, this day, personally appeared,
5 DEBRA SCHAMBERG, R.N., who, being duly sworn, states
6 that the foregoing transcript of her deposition, taken
7 in the matter, on the date, and at the time and place
8 set out on the title page hereof, constitutes a true
9 and accurate transcript of said deposition.

12 DEBRA SCHAMBERG, R.N.

14 SUBSCRIBED and SWORN to before me this
15 _____ day of _____, 20__ in the
16 jurisdiction aforesaid.

19 My Commission Expires Notary Public

21 *If no changes need to be made on the following two
22 pages, place a check here ___, and return only this
23 signed page.*

24 SIGNATURE: _____ DATE: _____

25 DEBRA SCHAMBERG, R.N.